

ADMINISTRATIVE PANEL DECISION

Cytec Technology Corp. v. Peter Mayors
Case No. D2022-2593

1. The Parties

The Complainant is Cytec Technology Corp., United States of America (“USA” or “United States”), represented by Petillion, Belgium.

The Respondent is Peter Mayors, USA.

2. The Domain Name and Registrar

The disputed domain name <cytecindustriesinc.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 15, 2022.

On July 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 19, 2022, the Registrar transmitted by email its verification response confirming the name of the registrant and contact information for the disputed domain name.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on July 22, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 11, 2022. The Respondent failed to submit a response by the specified deadline, therefore on August 12, 2022, the Center notified the Respondent’s default and that the Center would proceed to panel appointment.

The Center appointed Steven Auvil as the sole panelist in this matter on August 22, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

According to the Complaint, the Complainant is a subsidiary of Cytec Industries Inc., one of the world leaders in composite materials and in mining chemicals, based in the United States. The Complainant focuses on primary and secondary structures for aircrafts. In December 2015, the Complainant's group was acquired by Solvay S.A., a global science company that specialized in high-performance polymers and composites technologies, and a leader in chemicals. The Solvay group is located in Brussels and employs more than 21,000 people in 63 countries with a net sale of EUR 10.1 billion in 2021.

The Complainant has been using the CYTEC mark since 1993. The Complainant owns registered marks for the CYTEC brand, including, Benelux word mark No. 518109 (registered February 1, 1993), United States Registration No.1918650 (registered September 12, 1995), and European Union Trade Mark registration No. 000390534 (registered May 5, 1999).

The disputed domain name <cyteciindustriesinc.com> was registered on January 10, 2022. Both at the time of writing the Complaint and at the time of writing this Decision, the disputed domain name resolved to an inactive website and the web browser returned a message "This site can't be reached".

5. Parties' Contentions

A. Complainant

The Complainant alleges that the disputed domain name is confusingly similar to its CYTEC mark because the disputed domain name incorporates the Complainant's entire CYTEC mark and only adds the descriptive terms "industries" and "inc". The Complainant contends that the disputed domain name is responsible for sending fraudulent emails and impersonating the Complainant's parent company to order products from an Indian vendor.

The Complainant also asserts that the Respondent has no rights or legitimate interests in the disputed domain name because the Respondent is not commonly known by the disputed domain name. The Complainant contends that the Respondent has no trademark or service mark rights in the disputed domain name, and that the Complainant has not authorized the use and registration of the disputed domain name.

Furthermore, the Complainant asserts that because the Respondent has effectively impersonated the Complainant and its related entities to fraudulently order products from vendors it cannot constitute a *bona fide* or even fair use of the disputed domain name.

Additionally, the Complainant asserts that the Respondent registered the disputed domain name in bad faith because the Respondent knew or should have known of the Complainant's rights in the CYTEC mark when he registered the disputed domain name. The Complainant asserts the disputed domain name incorporates the Complainant's entire CYTEC mark, the Respondent used the Complainant's distinctive CYTEC mark in fraudulent emails linked to the disputed domain name, and even provided the contact information for the Complainant's group in a purchase order. The Complainant also states that the Complainant and its marks are distinctive and well known in the United States, where the Respondent is also located.

The Complainant asserts that the Respondent has used the disputed domain name in bad faith because it affects the business of the Complainant by attracting visitors looking for information about the Complainant or its marks and creating difficulties for persons searching the Internet. Additionally, the Complainant alleges that because the Respondent's use of the disputed domain name was likely for commercial gain and illegal activities such as impersonation and other types of fraud, it is further evidence of bad faith.

The Complainant requests that the disputed domain name be transferred to the Complainant.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

According to paragraph 15(a) of the Rules: “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.” Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following to obtain relief:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or a service in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

In view of the Respondent's failure to submit a Response, the Panel renders this Decision on the basis of the Complainant's undisputed allegations, pursuant to paragraphs 5(f), 14(a), and 15(a) of the Rules, and draws such inferences it considers appropriate, pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept as true allegations set forth in the Complaint, unless the evidence is clearly contradictory, and to derive reasonable inferences from the evidence presented. See *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#).

Based on the foregoing guidance, the Panel makes the following findings and conclusions on the basis of the undisputed allegations and evidence contained in the Complaint and reasonable inferences drawn from the evidence.

A. Identical or Confusingly Similar

As noted above, the Complainant is the owner of several registered trademarks for the CYTEC brand. The Panel therefore finds that the Complainant has rights in the CYTEC mark.

Section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) states that “[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element”.

It is further understood that when a disputed domain name fully incorporates a complainant's registered mark, it is indicative of the disputed domain name being identical or confusingly similar. See [WIPO Overview 3.0](#), section 1.7; see also *Shaw Industries Group, Inc., Columbia Insurance Company v. shawindustries*, WIPO Case No. [D2005-1037](#) (finding “‘industries’ a generic word” that could not serve to distinguish the respondent's website from the complainant's mark to avoid being named confusingly similar); *Roper Industries, Inc. v. Roper Industries, Inc., David Willis*, WIPO Case No. [D2014-1039](#) (finding the disputed domain name confusingly similar because it entirely incorporates the complainant's mark and “merely appends the terms ‘industries’ and ‘inc.’”, which did not reduce the confusing similarity).

Here, the disputed domain name incorporates the Complainant's entire CYTEC mark as well as the terms “industries” and “inc”, followed by the generic Top-Level Domain (“gTLD”) “.com”. As noted, the Respondent's addition of the words “industries” and “inc” to the Complainant's CYTEC mark in the disputed domain name does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8.

Additionally, as set forth in section 1.11.1 of the [WIPO Overview 3.0](#), the applicable gTLD (e.g., “.com”,

“.site”, “.info”, “.shop”) “is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test”. As such, the use of “.com” has no bearing on establishing identity or confusing similarity here. See *Calzaturificio Casadei S.p.A. v. Nancy Salvaggio*, WIPO Case No. [D2019-2329](#); *GS1 AISBL v. WhoisGuad Inc. /Elmer Robles*, WIPO Case No. [D2020-2037](#).

Therefore, the Panel finds that the Complainant has proven that the disputed domain name is confusingly similar to the Complainant’s mark. Therefore, the first element of paragraph 4(a) of the Policy is met.

B. Rights or Legitimate Interests

From the Complainant’s allegations and evidence as well as the inferences drawn from the evidence, the CYTEC mark is a distinctive and well-known mark registered by the Complainant. The Complainant has operated its business for decades, both domestically and internationally. The Complainant did not license or otherwise authorize the Respondent’s use of the CYTEC mark, and the Complainant has no affiliation, association, sponsorship, or connection with the Respondent. The Complainant provides evidence demonstrating that the disputed domain name has been used in connection with deceptive and fraudulent activities. Therefore, the Panel finds that the Complainant has made out a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

Section 2.1 of the [WIPO Overview 3.0](#) provides that “where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element”.

Here, the Respondent did not respond to the Complaint and thus has failed to rebut the *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. Accordingly, the Panel finds that the Respondent in fact has no rights or legitimate interests in the disputed domain name and that the second element of paragraph 4(a) of the Policy is satisfied.

C. Registered and Used in Bad Faith

Section 3.1.4 of the [WIPO Overview 3.0](#) provides that “[p]anelists have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith”. Additionally, section 3.2.1 of the [WIPO Overview 3.0](#) provides that “[p]articular circumstances panels may take into account in assessing whether the respondent’s registration of a domain name is in bad faith include: (i) the nature of the domain name (e.g., a typo of a widely-known mark, or a domain name incorporating the complainant’s mark plus an additional term such as a descriptive or geographic term, or one that corresponds to the complainant’s area of activity or natural zone of expansion); [...] (vi) a clear absence of rights or legitimate interests coupled with no credible explanation for the respondent’s choice of the domain name, or (viii) other indicia generally suggesting that the respondent had somehow targeted the complainant”.

Here, as noted above, the disputed domain name incorporates the entirety of the Complainant’s registered CYTEC mark, which has been used for over 20 years.

The evidence demonstrates that the Respondent was using the disputed domain name in connection with deceptive and fraudulent activities. Indeed, the use of the Complainant’s CYTEC mark in the disputed domain name was meant to impersonate the Complainant and related entities to order products from an Indian vendor. This use has caused and will continue to cause recipients of the emails to reasonably believe those emails are connected to or approved by the Complainant or its related entities. Through the inclusion of the Complainant’s entire CYTEC mark and use of the real address of an entity of the Complainant’s group in the purchase order, the Panel finds that Respondent was aware of the Complainant’s business and rights. This is disruptive and also evidences bad faith registration and use. See *Mazzetta Company*,

LLC v. Perfect Privacy, LLC/ Name Redacted Case, WIPO Case No. [D2021-3043](#) (finding that because the respondent sent fraudulent emails and deceptively presented itself as a complainant executive, even using official contact information, it registered and was using the disputed domain name in bad faith); *Minerva S.A. v. Miranda Nyenhuis*, WIPO Case No. [D2018-0763](#) (finding that because the respondent used the disputed domain name in an email scam using the names of the complainant's employees, it is evidence of registration and use in bad faith).

The Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's CYTEC mark as the source, sponsorship, affiliation or endorsement of the Respondent's fraudulent emails under paragraph 4(b)(iv) of the Policy.

Moreover, the fact that the disputed domain name does not currently resolve to an active website does not prevent a finding of bad faith.

Accordingly, the Panel finds that the disputed domain name has been registered and is being used in bad faith and that the third element of paragraph 4(a) of the Policy is satisfied.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <cytecindustriesinc.com> be transferred to the Complainant.

/Steven Auvil/

Steven Auvil

Sole Panelist

Date: September 5, 2022