

ADMINISTRATIVE PANEL DECISION

British American Tobacco (Brands) Limited v. Contact Privacy Inc. Customer
0163501448 / James Onuoha Doe, Bat Corps
Case No. D2022-1353

1. The Parties

The Complainant is British American Tobacco (Brands) Limited, United Kingdom, represented by Demys Limited, United Kingdom.

The Respondent is Contact Privacy Inc. Customer 0163501448, Canada / James Onuoha Doe, Bat Corps, Gambia.

2. The Domain Name and Registrar

The disputed domain name <careers-bat.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 14, 2022. On April 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 14, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on April 27, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on April 28, 2022.

The Center verified that the Complaint together with the amended 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 May 2, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 22, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 25, 2022.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on June 9, 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

The Complainant is one of the largest publicly traded tobacco companies in the world, operating in around 180 countries and employing over 95,000 people.

The Complainant operates the website “www.bat.com” and a careers-specific website at the sub domain <careers.bat.com> to advertise vacancies and other career opportunities.

The Complainant owns a large global portfolio of registered trademarks for the term “bat”, including the following:

- United Kingdom Trademark registration No. 2135480 BAT, registered on February 27, 1998;
- United States of America Trademark registration No. 6648755 BAT (figurative), registered on February 22, 2022;
- International Trademark registration No. 1548290 BAT (figurative), registered on June 1, 2020.

The disputed domain name was registered on January 13, 2022, and has been used in connection with advance fee fraud. The disputed domain name does not resolve to any active website.

5. Parties' Contentions

A. Complainant

The Complainant argues that the disputed domain name consists of its registered trademark BAT, in addition to the descriptive and generic term “careers”.

According to the Complainant, the Respondent lacks rights and legitimate interests in the disputed domain name, does not hold any trademark for the term “bat” and is not known by the disputed domain name.

In addition, the Complainant says and evidences that the Respondent has not made a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use of the disputed domain name. Instead, the disputed domain name has been used in connection with advance fee fraud.

The Complainant says that the Respondent is not licensed or authorized to register and use the disputed domain name, and that it was registered by the Respondent to ensure that potential victims of the scam would think any email correspondence sent to and from the disputed domain name originated from the Complainant.

The Complaint explains and shows evidence that the Respondent has registered and used the disputed domain name in bad faith by sending emails with employment offers and purported to have been sent from the Complainant, also reproducing the Complainant's BAT logo and mark.

According to the Complainant, the Respondent has been a party to other five previous disputes under the UDRP and in all of them it was held to have registered and used the respective domain names in bad faith.

Finally, the Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

As per paragraph 4(a) of the Policy, the Complainant must prove that:

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

A. Identical or Confusingly Similar

The evidence presented in the Complaint demonstrates that the Complainant is the owner of trademark registrations for BAT in several jurisdictions.

The disputed domain name incorporates the Complainant's trademark BAT in its entirety. The addition of the term "careers" does not avoid a finding of confusing similarity between the disputed domain name and the Complainant's trademark. It is the general view among UDRP panels that the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) to a trademark in a domain name would not avoid a finding of confusing similarity under the first element of the UDRP (for example, *Ansell Healthcare Products Inc. v. Australian Therapeutics Supplies Pty, Ltd*, WIPO Case No. [D2001-0110](#); see also section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

As numerous prior UDRP panels have recognized, the incorporation of a trademark in its entirety or a dominant feature of a trademark is sufficient to establish that a domain name is confusingly similar to the complainant's mark. See section 1.7 of the [WIPO Overview 3.0](#).

The Panel finds that paragraph 4(a)(i) of the Policy has been proved by the Complainant, *i.e.*, the disputed domain name is confusingly similar to the Complainant's trademark.

B. Rights or Legitimate Interests

The Respondent has not submitted a response to the Complaint.

There is no evidence that the Respondent has any authorization to use the Complainant's trademark or to register domain names containing the trademark BAT.

There is no evidence that the Respondent is commonly known by the disputed domain name.

There is also no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name or that before any notice of the dispute the Respondent has made use of or demonstrable preparations to use the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services. Instead, the Complainant has evidenced that the disputed domain name does not resolve to any active website and has been used to mislead users by offering false employment opportunities. The Panel finds that such use of the disputed domain name, which incorporates the Complainant's trademark, does not correspond to a *bona fide* use of the disputed domain name under the Policy.

Moreover, the addition of “careers” to the Complainant’s trademark in the disputed domain name gives the idea that the disputed domain name refers to the Complainant’s “staff recruitment” official webpage. Therefore, the nature of the disputed domain name carries a risk of implied affiliation. See section 2.5.1 of the [WIPO Overview 3.0](#).

For the above reasons, the Panel finds that the condition of paragraph 4(a)(ii) of the Policy has been satisfied, *i.e.*, the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The trademark BAT is registered by the Complainant in several jurisdictions and the oldest registration presented in the Complaint predates the disputed domain name by approximately 24 years.

The disputed domain name entirely reproduces the Complainant’s trademark BAT adding the descriptive term “careers”, and the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant’s mark is known and has online visibility, being the platform operated by the Complainant at “www.bat.com”, its main website. Also, the Complainant operates a website specific to advertise careers and job opportunities at the sub domain <careers.bat.com>. Thus, the mere registration of the disputed domain name that incorporates the Complainant’s widely-known mark plus a descriptive term by the unaffiliated Respondent can by itself create a presumption of bad faith.

In addition to the above, the Complainant has showed evidence that the disputed domain name has been used by the Respondent to mislead users into believing that the disputed domain name was related to the Complainant, by sending emails with employment offers with the Complainant’s mark and logo from the email address associated with the disputed domain name with the purpose of conducting advance fee fraud. Therefore, it is not conceivable that the Respondent would not have been aware of the Complainant’s trademark rights at the time of the registration of the disputed domain name.

It is clear for this Panel that at the time of registration of the disputed domain name the Respondent was aware of the Complainant’s mark and registered it in bad faith to purposely create a likelihood of confusion with the Complainant for illegitimate activities.

Although the disputed domain name does not resolve to any active website, according to the Complainant, the disputed domain name has been used for sending deceptive emails with job opportunities for possibly conducting advance fee fraud. UDRP panels have held that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution. See section 3.4 of the [WIPO Overview 3.0](#).

Moreover, the Respondent has chosen not to respond to the Complainant’s allegations. According to the panel’s decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company*, WIPO Case No. [D2009-0610](#), “the failure of the Respondent to respond to the Complaint further supports an inference of bad faith”.

Therefore, this Panel finds that the Respondent has intentionally attempted to cause confusion with the Complainant by misleading Internet users into believing that it belongs to or is associated with the Complainant in order to conduct its illegitimate activities.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(iii) of the Policy has been satisfied, *i.e.*, the disputed domain name has been registered and is being used in bad faith.

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, <careers-bat.com>, be transferred to the Complainant.

/Mario Soerensen Garcia/

Mario Soerensen Garcia

Sole Panelist

Date: June 23, 2022.