

ADMINISTRATIVE PANEL DECISION

Outfront Media LLC v. Privacy Service Provided by Withheld for Privacy ehf /
Ronald Hadsell
Case No. D2022-1546

1. The Parties

The Complainant is Outfront Media LLC, United States of America (“United States”), represented by Jones Day, United States.

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Ronald Hadsell, United States.

2. The Domain Name and Registrar

The disputed domain name <outfrontt.com> (the “Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 28, 2022. On April 29, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On April 29, 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 May 3, 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 amendment to the Complaint on May 6, 2022.

The Center verified that the Complaint together with the amendment to 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 May 10, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 30, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 7, 2022.

The Center appointed Lynda M. Braun as the sole panelist in this matter on June 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

Since at least as early as October 2014, the Complainant has used technology, location, and creativity to connect brands with consumers outside of their homes through one of the largest and most diverse collections of billboard, transit, and mobile resources in North America.

The Complainant owns the OUTFRONT trademark and uses the trademark in connection with a variety of advertising services, including, but not limited to, advertising services featuring audio and visual content distributed via billboards, digital billboards, digital posters, and digital outdoor advertising displays, as well as other marketing and promotional services.

Specifically, the Complainant owns the following OUTFRONT trademark with the United States Patent and Trademark Office ("USPTO"): OUTFRONT, United States Registration No. 5,834,907, registered on August 13, 2019, in International Class 35. The Complainant also owns 5 other OUTFRONT trademarks with the USPTO and has prominently and extensively used, advertised, and promoted its out-of-home advertising and related services using the OUTFRONT trademarks, including on the Complainant's website, social media, and marketing materials. The foregoing trademarks will hereinafter collectively be referred to as the "OUTFRONT Mark".

In addition, the Complainant owns the domain names <outfront.com> and <outfrontmedia.com>, which resolve to the Complainant's interactive Internet websites at "www.outfront.com" and "www.outfrontmedia.com", respectively, and which market and promote the advertising services the Complainant provides.

The Disputed Domain Name was registered on December 2, 2021, and initially resolved to a pay-per-click landing page, on which it hosted multiple hyperlinks to third-party websites, from which the Respondent presumably collects revenue for each click.¹

5. Parties' Contentions

A. Complainant

The following are the Complainant's contentions:

- the Disputed Domain Name is confusingly similar to the Complainant's OUTFRONT Mark;
- the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name;
- the Disputed Domain Name was registered and is being used in bad faith; and
- the Complainant seeks the transfer of the Disputed Domain Name from the Respondent to the Complainant in accordance with paragraph 4(i) of the Policy.

B. Respondent

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

¹ As of the writing of this Decision, however, the Disputed Domain Name resolves to an error landing page which states "This site can't be reached. www.outfrontt.com refused to connect".

6. Discussion and Findings

Paragraph 4(a) of the Policy requires that the Complainant prove the following three elements in order to prevail in this proceeding:

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

A. Identical or Confusingly Similar

This element consists of two parts: first, does the Complainant have rights in a relevant trademark and, second, is the Disputed Domain Name identical or confusingly similar to that trademark. The Panel concludes that the Disputed Domain Name is confusingly similar to the OUTFRONT Mark.

It is uncontroverted that the Complainant has established rights in the OUTFRONT Mark based on its years of use as well as its registered trademarks for the OUTFRONT Mark in the United States. The consensus view is that “registration of a mark is *prima facie* evidence of validity, which creates a rebuttable presumption that the mark is inherently distinctive”. See *CWI, Inc. v. Domain Administrator c/o Dynadot*, WIPO Case No. [D2015-1734](#). The Respondent has not rebutted this presumption, and therefore the Panel finds that the Complainant has rights in the OUTFRONT Mark. Moreover, the registration of a mark satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.2.1. Thus, the Panel finds that the Complainant has rights in the OUTFRONT Mark.

The Disputed Domain Name consists of the OUTFRONT Mark in its entirety, although misspelled by repeating one letter – the second letter “t” in “outfront” – and then followed by the generic Top-Level Domain (“gTLD”) “.com”. Such a minor modification to a trademark is commonly referred to as “typosquatting” and seeks to wrongfully take advantage of errors by a user in typing a domain name into a web browser. The misspelling of the Disputed Domain Name does not prevent a finding of confusing similarity to the OUTFRONT Mark. See [WIPO Overview 3.0](#), section 1.9 (“A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element”); see also *Silversea Cruises, Ltd. v. Whois Agent, Domain Protection Services, Inc. / Domain Vault, Domain Vault LLC*, WIPO Case No. [D2018-2306](#) (“The Domain Name [silverseas.com] is virtually identical to the SILVERSEA trademark but for the addition of the letter ‘s’ creating a plural version of the SILVERSEA trademark. The addition of the letter ‘s’ does not distinguish the Domain Name from the SILVERSEA trademark and is a common form of typosquatting”).

Further, the addition of a gTLD such as “.com” in a domain name is technically required. Thus, it is well established that such element may typically be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark. See *Proactiva Medio Ambiente, S.A. v. Proactiva*, WIPO Case No. [D2012-0182](#) and [WIPO Overview 3.0](#), section 1.11. Thus, the Panel concludes that the Disputed Domain Name is confusingly similar to the Complainant’s the OUTFRONT Mark.

Accordingly, the Panel finds that the first element of paragraph 4(a) of the Policy has been met by the Complainant.

B. Rights or Legitimate Interests

Under the Policy, a complainant has to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such a *prima facie* case is made, the respondent carries the burden of production of evidence that demonstrates rights or legitimate interests in the disputed

domain name. If the respondent fails to do so, the complainant may be deemed to have satisfied paragraph 4(a)(ii) of the Policy. See [WIPO Overview 3.0](#), section 2.1.

There is no evidence in the record suggesting that the Respondent has rights or legitimate interests in the Disputed Domain Name. The Complainant has not authorized, licensed, or otherwise permitted the Respondent to use the Complainant's OUTFRONT Mark. There is also no evidence that the Respondent is commonly known by the Disputed Domain Name or by any similar name.

Further, the Complainant does not have any business relationship with the Respondent and based on the use made of the Disputed Domain Name to resolve to a website that contains pay-per-click links, the Panel finds that the Respondent was not making a *bona fide* offering of goods or services nor making a legitimate noncommercial or fair use of the Disputed Domain Name. Applying the principles under paragraph 4(c) of the Policy, panels have found that the use of a domain to host a parked page comprising pay-per-click links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of a complainant's mark or otherwise mislead Internet users. See [WIPO Overview 3.0](#), section 2.9. In this instance, the Disputed Domain Name resolved to pages with hyperlinks. Although the third-party links had no apparent relationship to the Complainant or the Complainant's OUTFRONT Mark, they also had no apparent relationship to any potential dictionary meaning of the terms comprising the Disputed Domain Name.

The Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests, which has not been rebutted by the Respondent.

Accordingly, the Panel finds that the second element of paragraph 4(a) of the Policy has been met by the Complainant.

C. Registered and Used in Bad Faith

The Panel finds that, based on the record, the Complainant has demonstrated the existence of the Respondent's bad faith pursuant to paragraph 4(b) of the Policy as set forth below.

First, based on the circumstances here, the Panel concludes that the Respondent registered and is using the Disputed Domain Name in bad faith in an attempt to attract Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's OUTFRONT Mark as to the source, sponsorship, affiliation or endorsement of the Disputed Domain Name's resolving webpage. The Respondent's registration and use of the Disputed Domain Name indicate that such registration and use had been done for the specific purpose of trading on the name and reputation of the Complainant and its OUTFRONT Mark. See *Madonna Ciccone, p/k/a Madonna v. Dan Parisi and "Madonna.com"*, WIPO Case No. [D2000-0847](#) ("[t]he only plausible explanation for Respondent's actions appears to be an intentional effort to trade upon the fame of Complainant's name and mark for commercial gain").

Second, the Panel concludes that the Respondent knew about the Complainant's rights in the OUTFRONT Mark when it registered the Disputed Domain Name, since it added the repeated letter "t" to "outfront" to misdirect users from the Complainant's website to the Respondent's website by capitalizing on typing mistakes made by users. See *Nutricia International BV v. Eric Starling*, WIPO Case No. [D2015-0773](#). In this regard, the Respondent has not provided any explanation for its registration and use of the Disputed Domain Name, comprising the entirety of the OUTFRONT Mark with a common typing mistake, which has no apparent meaning other than as a typing mistake. Moreover, it appears the Respondent was thus intentionally capitalizing on potential customer confusion. Considering the circumstances in this case, it is implausible that the Respondent would have been unaware of the Complainant's OUTFRONT Mark at the time the Respondent registered the Disputed Domain Name. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

Third, the Respondent attracts users for commercial gain by displaying third party pay-per-click links on the landing page to which the Disputed Domain Name resolves. The use of a confusingly similar domain name

to display third party sponsored hyperlinks and allegedly collect click-through fees is evidence of bad faith under paragraph 4(b)(iv) of the Policy. As such, the Respondent was trading on consumer interest in the Complainant and its OUTFRONT Mark in order to generate Internet traffic and to commercially benefit from the referral fees associated with the links that appeared on the landing page. In the Panel's view, this constitutes bad faith. See *Fox News Network, LLC v. Warren Reid*, WIPO Case No. [D2002-1085](#); *Volvo Trademark Holding AB v. Unasi, Inc.*, WIPO Case No. [D2005-0556](#); *Lewis Black v. Burke Advertising, LLC*, WIPO Case No. [D2006-1128](#). Moreover, the Panel may reasonably infer that the Respondent was redirecting traffic to these third-party websites in exchange for a fee. See *Pfizer Inc. v. lipidor.com DNS Services*, WIPO Case No. [D2003-1099](#) (drawing "reasonable inference" respondent was redirecting traffic in exchange for fee). Further, even if such links were automatically generated or the Respondent itself was not directly profiting (but rather a third party), the Respondent cannot disclaim responsibility for content appearing on the website associated with the Disputed Domain Name (nor would such links *ipso facto* vest the Respondent with rights or legitimate interests). See [WIPO Overview 3.0](#), section 3.5.

Accordingly, the Panel finds that the third element of paragraph 4(a) of the Policy has been met by the Complainant.

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 <outfrontt.com> be transferred to the Complainant.

/Lynda M. Braun/

Lynda M. Braun

Sole Panelist

Date: July 6, 2022