

ADMINISTRATIVE PANEL DECISION

CWI, LLC v. Karl Schnurch, EdenMedia

Case No. D2023-4462

1. The Parties

Complainant is CWI, LLC, United States of America (“United States”), represented by Neal & McDevitt, United States.

Respondent is Karl Schnurch, EdenMedia, Seychelles.

2. The Domain Name and Registrar

The disputed domain name <campingworld.com> is registered with Key-Systems GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 26, 2023. On October 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 30, 2023, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to Complainant on the same day, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on October 31, 2023.

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 Respondent of the Complaint, and the proceedings commenced on November 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 22, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on November 23, 2023.

The Center appointed Stephanie G. Hartung as the sole panelist in this matter on November 27, 2023. 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

Complainant is a company organized under the laws of the United States that is active in the recreational vehicles industry.

Complainant has provided evidence that it is the registered owner of numerous trademarks relating to its company name and brand CAMPING WORLD, including, but not limited, to the following:

- word mark CAMPING WORLD, United States Patent and Trademark Office (USPTO), registration number: 4,536,313, registration date: May 27, 2014, status: active;
- word mark CAMPING WORLD, USPTO, registration number: 930,179, registration date: February 29, 1972, status: active.

Also, Complainant has indicated to own the domain name <campingworld.com> which resolves to Complainant's official website at "www.campingworld.com", used to promote Complainant's recreational vehicles and related services.

Respondent, according to the disclosed Whois information for the disputed domain name, is a resident of the Seychelles. The disputed domain name was registered on September 8, 2003. By the time of rendering this decision, the disputed domain name resolves to a typical holding website where it is offered for sale. Also, Complainant has demonstrated that, at some point before the filing of the Complaint (e.g. on October 26, 2023), MX records had been set up at the disputed domain name allowing e.g. to send and receive emails thereunder.

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

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, Complainant contends that it operates one of the United States' largest networks of recreational vehicle sales with roots going back to the mid-1960s, and that its CAMPING WORLD trademark is well known and famous throughout North America and elsewhere.

Complainant submits that the disputed domain name is nearly identical to Complainant's well-known CAMPING WORLD trademark, except that Respondent has engaged in typo-squatting when registering the disputed domain name that is a deliberate misspelling of said trademark by substituting the letter "m" for the letter "n". Moreover, Complainant asserts that Respondent has no rights or legitimate interests in respect of the disputed domain name since (1) Complainant has no relationship with Respondent and has never licensed, sponsored or otherwise authorized Respondent to use its CAMPING WORLD trademark in a domain name or otherwise, (2) there is no evidence that Respondent has been commonly known by the disputed domain name, (3) there is no evidence that Respondent has ever used the disputed domain name in a legitimate noncommercial or fair way, and (4) employing a misspelling in this way signals an intention on the part of Respondent to confuse users seeking or expecting Complainant. Finally, Complainant argues that Respondent has registered and is using the disputed domain name in bad faith because (1) given that Complainant's CAMPING WORLD trademark is well known, it is likely that Respondent knew thereof when registering the disputed domain name, (2) by selecting Complainant's well-known CAMPING WORLD trademark for a domain name that is an intentional misspelling thereof, Respondent has intended to confuse consumers and/or to drive traffic to its own website, and (3) Respondent not only is passively holding the disputed domain names, but has set up MX records thereunder, indicating that there is a mail server allowing to conduct a phishing attack or to distribute malware, steal personal information or otherwise commit bad acts.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, Complainant carries the burden of proving:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) that 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.

Respondent's default in the case at hand does not automatically result in a decision in favor of Complainant, however, paragraph 5(f) of the Rules provides that if Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint. Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from Respondent's failure to submit a Response as it considers appropriate.

A. Identical or Confusingly Similar

First, it is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between Complainant's CAMPING WORLD trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

Based on the available record, the Panel finds Complainant has shown rights in respect of the CAMPING WORLD trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

Moreover, the Panel finds that the CAMPING WORLD trademark is almost entirely reproduced within the disputed domain name, simply in a typo-squatted version by replacing the letter "n" through the letter "m", but still recognizable. Accordingly, the disputed domain name is confusingly similar to such trademark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.9.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Second, paragraph 4(c) of the Policy provides a list of circumstances in which Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainant has established a *prima facie* case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating

rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Respondent appears to be named “Karl Schnurch” of “EdenMedia”, as disclosed by the Registrar, and this name bears no resemblance to the disputed domain name. Moreover, the Panel has well noted that Respondent so far obviously has neither used the disputed domain name for a *bona fide* offering of goods or services nor for a legitimate noncommercial or fair purpose, but rather passively held it instead, besides offering it on the Internet for online sale. UDRP panels, however, have found that the mere registration of a domain name, even one that is comprised of a confirmed dictionary word or phrase, does not by itself automatically confer rights or legitimate interests therein (see [WIPO Overview 3.0](#), section 2.10.1). Finally, panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent (see [WIPO Overview 3.0](#), section 2.13.1). Here, Complainant has demonstrated that as at e.g. October 26, 2023, MX records had been set up at the disputed domain name. Given that the disputed domain name constitutes a deliberate misspelling of Complainant’s undisputedly well-known CAMPING WORLD trademark, this allows to conclude that Respondent, if at all, so far used (or intended to use) the disputed domain name for phishing, malware or in some other illegal manner, which gives no rise to any rights or legitimate interests on the part of Respondent in the disputed domain name.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Finally, the Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the case at hand, the Panel notes that Respondent so far obviously has neither used the disputed domain name for a *bona fide* offering of goods or services nor for a legitimate noncommercial or fair purpose, but rather passively held it instead, except that as at e.g. October 26, 2023, MX records had been set up at the disputed domain name, while it was offered on the Internet for online sale.

In this context, panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put ([WIPO Overview 3.0](#), section 3.3). Having reviewed the record, the Panel notes (1) the undisputed reputation of Complainant’s CAMPING WORLD trademark, (2) the composition of the disputed domain name which is a deliberate misspelling of said trademark, as well as (3) the absence of any explanation as to why Respondent needed to rely on Complainant’s CAMPING WORLD trademark in the disputed domain name and in a misspelled version, if not to somehow profit from the reputation connected thereto, and, thus, finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Also, panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) constitutes bad faith ([WIPO Overview 3.0](#), section 3.4). As already laid out above, the fact that as at e.g. October 26, 2023, MX records had been set up at the disputed domain name, allows, given that the disputed domain name constitutes a deliberate misspelling of Complainant’s undisputedly well-known CAMPING WORLD trademark, to conclude that Respondent, if at all, so far used (or intended to use) the disputed domain name for phishing, malware or in some other illegal manner, thus in a bad faith manner.

Finally, it carries weight in the eyes of the Panel that Respondent obviously provided false or incomplete contact information in the Whois register for the disputed domain name since, according to the email correspondence between the Center and the postal courier DHL, the Written Notice on the Notification of Complaint dated November 2, 2023 could not be delivered due to a bad address. This fact at least throws a light on Respondent's behavior which supports the Panel's bad faith finding.

Having reviewed the record, the Panel, therefore, holds Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

Based on the available record, the Panel so finds the third element of the Policy has been established, too.

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, <campingworld.com>, be transferred to Complainant.

/Stephanie G. Hartung/

Stephanie G. Hartung

Sole Panelist

Date: December 11, 2023