

ADMINISTRATIVE PANEL DECISION

Tempcover Ltd v Muhammad Usman
Case No. D2024-2541 <tempcover.tech>

1. The Parties

The Complainant is Tempcover Ltd of Hampshire, United Kingdom. It is represented by Ms Samantha Neil of AA Thornton IP LLP, London, England.

The Respondent is Muhammad Usman of Multan, Pakistan. He represented himself.

2. The Domain Name and Registrar

The Disputed Domain Name <tempcover.tech> is registered with FastDomain Inc, an offshoot of Network Solutions LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 21, 2024. On June 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 21, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

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 June 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 15, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 16, 2024.

On July 17, 2024, the Respondent sent an email communication to the Center proposing the transfer of the disputed domain name. On July 18, 2024, the Center sent an email to the parties explaining the procedures for settling an administrative proceeding both before and after it had been referred to a Panel for decision.

The Center invited the Complainant to comment on the possible settlement on July 23, 2024. The Complainant replied, indicating its intention to proceed with the UDRP process on July 24, 2024. The Respondent did not reply.

The Center appointed Philip N. Argy as the sole panelist in this matter on July 26, 2024. 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 paragraph 7 of the Rules.

4. Factual Background

The following facts, taken from the Complaint, remain uncontested.

The Complainant is part of the RVU Group of companies which owns some of the best-known brands in the UK and Europe, including TEMPCOVER. It was first used in 2010 following the rebranding of Temporary Cover to Tempcover.com but was not the subject of a formal trademark application until May 16, 2019. That application was granted in the UK on August 16, 2019 for services in class 36 being “insurance services; arranging of insurance, insurance brokerage; insurance research; underwriting services; actuarial services”¹. However, the Complainant has also held a trademark registration for <temp cover.com> since December 4, 2009.²

Since 2013 the Complainant has sold over 1 million insurance policies in the UK and in 2016 it celebrated its 10th birthday by selling its 2 millionth policy. It became part of the RVU Group in 2022 by which time it was working with a panel of insurers and 85 corporate partners and brokers.

The core of the Complainant’s business is short-term car insurance sold through its website at tempcover.com. The Complainant’s services are offered via some of the UK’s largest price comparison websites including USwitch, Compare the Market, and money.co.uk. It is recognised by industry award ceremonies for its exceptional product offering and has achieved acclaim in numerous competitions over the last decade, mostly in the UK.

The Complainant also operates pages on various social media platforms where its trademarks feature prominently. It regularly receives positive customer reviews and currently has a 4.7 out of 5 star rating across over 30,000 reviews on trustpilot.com and Google.

The Complainant’s trademarks have acquired a significant reputation amongst the UK public as a result of extensive use for nearly two decades in relation to the offer of short-term insurance.

The Disputed Domain Name resolved to a website (the Respondent’s website) which mimics the Complainant’s website at tempcover.com. In fact, the mimicry extends to use of the Complainant’s trademarks, the text of its website and the use of links most of which also resolve to the Complainant’s website. It extends to use of the Complainant’s address, registered company number and Financial Conduct Authority regulation number in the footer. The Respondent’s website purports to offer identical services to those of the Complainant.

The Complainant has not authorised the Respondent to use any of its marks or identity attributes. Nor is there any evidence that the Respondent has ever used or made preparations to use the Disputed Domain Name or the TEMPCOVER mark in connection with a legitimate business. And the Respondent is not an agent for the Complainant.

The Disputed Domain Name was first registered on May 23, 2024 by the Respondent.

¹ UK Trade Mark number 00003399923

² UK Trade Mark number 00002515637

5. Parties' Contentions

A. Complainant

The Complainant contends that:

- a) The Disputed Domain Name is identical or confusingly similar to a trademark in which it has rights;
- b) The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- c) The Disputed Domain Name was registered and is being used in bad faith.

In relation to the first element of the Policy the Complainant primarily submits that the Disputed Domain Name comprises the word "tempcover" and is therefore identical to its registered trademarks for TEMPCOVER.

Whilst noting that the Disputed Domain Name includes the top level domain ".tech" the Complainant submits that previous UDRP decisions have established that the top level domain is irrelevant to a determination of confusing similarity under the Policy because it is a requirement of a domain registration. However, the choice of top level domain can in some circumstances reinforce confusing similarity, for which proposition the Complainant cites the November 12, 2010 decision in *Canal + France v Frank LeTourneau*, WIPO Case No. [DTV2010-0012](#).

In relation to the second element of the Policy the Complainant notes that by impersonating the Complainant the Respondent evinced clear awareness of the Complainant and the Complainant's website when he applied to register the Disputed Domain Name. Since the Respondent's website is not authorised by the Complainant, adopts the Complainant's identity, and presently links to the Complainant's website the Respondent is implicitly conceding that he personally has no rights or legitimate interests in respect of the Disputed Domain Name. Furthermore, there is no evidence that the Respondent has ever used or made preparations to use the Disputed Domain Name or the name TEMPCOVER in connection with any legitimate business, or that he has otherwise been known by the Disputed Domain Name.

The Complainant submits that the Respondent is clearly not making a legitimate, noncommercial or fair use of the Disputed Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the reputation that exists in the Complainant's trademarks.

In relation to the third element of the Policy the Complainant submits that the Respondent's impersonation of it can have no purpose other than to deceive consumers into thinking that the Disputed Domain Name is operated by or connected to the Complainant. The use of the Complainant's trademarks throughout the Respondent's website to allegedly offer services identical to those in respect of which the Complainant's trademarks are registered and in respect of which they have a significant reputation can only result in confusion on the part of Internet users.

Of more concern than the use of the Disputed Domain Name to resolve to the Respondent's website is the use of it as an email domain to commit fraud or as part of a phishing campaign. In that context the way that the Disputed Domain Name is being used to mimic and point to the Complainant's website would give the Respondent's emails an air of authenticity thereby perfecting any deception. By reference to the [WIPO Overview 3.0](#) section 3.1.4 the Complainant notes that use of a domain name to redirect to the genuine website of a complainant can establish bad faith because the Respondent retains control over the redirection thus creating an ongoing threat to a complainant. The Complainant cites *Skyscanner Ltd v. Domain Admin, Who is Privacy Corp*, WIPO Case No. [D2019-0507](#) as an exemplar of the proposition.

By reason of the foregoing conduct the Complainant contends that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's trademarks as to the source, affiliation, endorsement or control of the Respondent website.

B. Respondent

The Respondent did not file a Response nor reply to the Center's communications explaining the procedure for settlement (triggered by his own query).

6. Discussion and Findings

Despite the Respondent's failure to file a Response the onus remains on the Complainant to make out each element of the Policy on the balance of probabilities.

A. Identical or Confusingly Similar

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 the Complainant's 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.

Here there is unchallenged evidence that the Complainant holds trademark registrations for TEMPCOVER which is sufficient to establish that it has rights in respect of that trademark. Furthermore, it is uncontested that the Disputed Domain Name comprises the Complainant's trademark to which is appended the ".tech" top level domain. Certainly, it is well-established that generic top level domains have little role to play in determining whether the first element of the Policy is satisfied in any given case but, with the advent of more descriptive top level domains, that general proposition needs qualification. So, to give a hypothetical example, if there were ever to be top level domains ".awnings" and ".insurance", a respondent might plausibly contend that "tempcover.awnings" was not confusingly similar to "tempcover.insurance" even considering that, as is important to note, the comparison to be performed must not take account of the content of any website to which a domain name resolves – it is purely a comparison of the denotation and connotation of the words and characters comprising the respective trademarks and domain names.

The Panel notes the recent FORUM case of *Abnormal Security Corporation v. Narendra Ghimire*, Claim Number: FA2405002099733 in which the ccTLD in <abnormal.ai> was regarded as a well-recognised abbreviation for "artificial intelligence". Similarly, the ccTLD .tv for Tuvalu is frequently utilised to convey "television". As long ago as 2013 there was commentary to the effect that top level domains might in context be relevant to considerations under the first element of the Policy: *Tesco Stores Limited v. M.F.* WIPO Case No. [DCO2013-0017](#) in respect of <tes.co>.

Whilst the Panel can conceive of a case where the class in which a complainant's trademark is registered could also be relevant to a consideration of confusing similarity, where, as here, the impugned domain name ignoring the top level domain suffix is *identical* to the Complainant's registered trademark, the argument is much weaker. In the present case the Panel is of the view that the ".tech" top level domain does not have sufficient distinguishing power to prevent the Disputed Domain Name from being confusingly similar to the Complainant's TEMPCOVER trademark and the Panel so finds.

The first element of the Policy has therefore been made out to the requisite satisfaction of the Panel.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name. The Respondent here has not sought to avail of those provisions.

Given the flagrancy of the Respondent's impersonation of the Complainant, including the use of the Complainant's legal identifiers, he has implicitly conceded that he has no rights or legitimate interests in respect of the Disputed Domain Name. The Panel has no hesitation in accepting the Complainant's

contentions under this element of the Policy – there is not a skerrick of legitimacy nor any rights whatsoever that the Respondent could plausibly claim to have in respect of the Disputed Domain Name.

The second element of the Policy has therefore been made out to the requisite satisfaction of the Panel.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, that, if found by the Panel to be present, are taken to be conclusive evidence of the registration and use of a domain name in bad faith. Whilst paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. See [WIPO Overview 3.0](#), section 3.2.1.

It is also well-established that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Here the Respondent's website presently forwards everything to the Complainant's website so in that sense it is passive. Nevertheless, that could change at any moment without notice and without the Complainant having any ability to prevent it. In those circumstances even if what the Respondent is doing could be regarded as a passive holding the Panel is satisfied that such a passive holding of the Disputed Domain Name does not prevent a finding of bad faith under the Policy. Furthermore, appearances can be deceiving; it is quite conceivable that the Respondent's website is being used to enhance the apparent authenticity of [name]@tempcover.tech emails. Whilst the evidence is insufficient to enable the Panel to make a formal finding in that regard the potential for that to occur is plausible given the way that the Disputed Domain Name is currently being used.

Panels have consistently held that the use of a domain name for illegal activity is bad faith use. Even though here the bad faith use is potential or latent (or perhaps subversive and undetected) it can be activated at will by the Respondent regardless of the Complainant's wishes. In those circumstances the Panel regards the current use being made of the Disputed Domain Name as use in bad faith. The form of the Respondent's website from its inception demonstrates registration of the Disputed Domain Name in bad faith.

In light of the foregoing considerations, the third element of the Policy has been established.

7. Order

All grounds of the Policy having been made out, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the domain name <tempcover.tech> be transferred to the Complainant.

/Philip N. Argy/

Philip N. Argy

Sole Panelist

Date: August 9, 2024