

ADMINISTRATIVE PANEL DECISION

Certifer SA v. Domain Admin
Case No. D2024-3180

1. The Parties

The Complainant is Certifer SA, France, represented by APAVE International, France.

The Respondent is Domain Admin, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <certifer.com> is registered with TurnCommerce, Inc. DBA NameBright.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 12, 2024. On August 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 2, 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 August 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 26, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 27, 2024.

The Center appointed John Swinson as the sole panelist in this matter on September 10, 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 the Rules, paragraph 7.

4. Factual Background

The Complainant is a French company founded in 1997 that specializes in technical analysis, testing and inspection. The Complainant has rail specialists in 24 offices in 21 countries.

The Complainant owns European Union Trademark Number 017482936 for CERTIFER filed on November 16, 2017, and registered on May 11, 2018.

The Complainant's website is located at "www.certifer.eu" and currently includes pages with headings such as "Expert in Mobility and Railway Safety" and "Inspection of Hosting, Piling & Lifting".

The Respondent did not submit a Response, so little information is known about the Respondent. The Registrar's records list the Respondent as "Domain Admin" with an email address at HugeDomains.

The disputed domain name was registered on February 1, 2010. There is no evidence before the Panel that the disputed domain name has been used other than for listing it for sale.

The Complainant included a listing from HugeDomains on May 8, 2024, listing the disputed domain name (listed as "CertifEr.com") for sale for USD 15,895 or USD 1,324.58 a month for 12 months.

At the present time, the disputed domain name does not resolve to an active website and is not listed for sale on the HugeDomains website.

5. Parties' Contentions

A. Complainant

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

Notably, the Complainant contends that the Complainant owns a registered trademark for CERTIFER, and has a portfolio of "certifer" related domain names and corporate names in different countries. The disputed domain name has been listed for sale on several occasions, including in 2017 and 2018 for EUR 1,500 and more recently for USD 15,895. The disputed domain name has not been used since registration. The disputed domain name was registered primarily for the purpose of selling it to the Complainant or a competitor of the Complainant. It was also registered to prevent the Complainant from reflecting its trademark in a corresponding domain name.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (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.

The onus of proving these elements is on the Complainant.

An asserting party needs to establish that it is more likely than not that the claimed fact is true. An asserting party cannot meet its burden by simply making conclusory statements unsupported by evidence. To allow a party to merely make factual claims without any supporting evidence would essentially eviscerate the requirements of the Policy as both complainants or respondents could simply claim anything without any proof. For this reason, UDRP panels have generally dismissed factual allegations that are not supported by any bona fide documentary or other credible evidence. *Snowflake, Inc. v. Ezra Silverman*, WIPO Case No. [DIO2020-0007](#); *Captain Fin Co. LLC v. Private Registration, NameBrightPrivacy.com / Adam Grunweg*, WIPO Case No. [D2021-3279](#).

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.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

In light of the findings on the third element, it is not necessary to make a finding here under the second element.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that the Complainant must establish that the Respondent registered and subsequently used the disputed domain name in bad faith.

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, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Generally speaking, a finding that a domain name has been registered and is being used in bad faith requires an inference to be drawn that the respondent in question has registered and is using the disputed domain name to take advantage of its significance as a trademark owned by (usually) the complainant. *Instagram, LLC v. Domains By Proxy, LLC / Masud Rana, D-limit Ltd*, WIPO Case No. [D2022-0250](#).

The disputed domain name was registered in 2010, which is seven years before the Complainant filed for trademark protection for its CERTIFER trademark. The Complainant does not provide evidence of its use of CERTIFER as a trademark in or before 2010. The Complainant relies on three circumstances prior to 2010:

1. The corporate name Railway Certification Agency "Certifer", an association created on February 12, 1997.
2. The domain name <certifer.fr> of the Railway Certification Agency "Certifer" created on December 24, 2007.

3. The domain name <certifer.eu>, created on July 4, 2006, that currently redirects to <certifer.fr>.

No evidence was provided to show relationship between the Complainant and the association Railway Certification Agency “Certifer”.

The three circumstances relied upon by the Complainant and set out above potentially show use prior to 2010. They do not prove use or the extent of such use. They do not demonstrate that the Respondent (ostensibly located in the United States) would have been aware of the Complainant or the use of “CERTIFER” in 2010 or that the Respondent registered the disputed domain name because of the Complainant. This is particularly so because the Complainant is operating in a specialist field, primarily railway safety.

The Complainant and its CERTIFER trademark may be well-known today in the railway and safety industries, but there is no evidence that the Complainant and its trademark were known in 2010 or likely to be known to the Respondent in 2010.

The Complainant does not show any unregistered rights that it owned in CERTIFER trademark in 2010. Moreover, the Complainant does not explain how the Respondent could have targeted the Complainant or its trademark in 2010, also noting that the term is nearly identical to a non-trademark word. Therefore, the Panel finds that the Complainant failed to prove that the Respondent registered the disputed domain name in bad faith. *1inch Limited v. Kwang Lee*, WIPO Case No. [D2024-2132](#).

The Complainant relies on paragraph 4(b)(i) of the Policy, namely that the Respondent registered or acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant or to a competitor of the Complainant, for valuable consideration in excess of the Respondent’s documented out-of-pocket costs directly related to the disputed domain name. There is no evidence that the Respondent likely knew of the Complainant in 2010 and thus the Panel cannot conclude that the Respondent registered the disputed domain name to sell to the Complainant or to a competitor of the Complainant. There is no evidence that the Respondent has ever contacted the Complainant to sell the disputed domain name to the Complainant. *Forever I Am, Inc v. Domain Admin, HugeDomains.com*, WIPO Case No. [D2021-1550](#).

Panels have found that the practice as such of registering a domain name for subsequent resale (including for a profit) would not by itself support a claim that the respondent registered the domain name in bad faith with the primary purpose of selling it to a trademark owner (or its competitor). [WIPO Overview 3.0](#), section 3.1.1. See also *Young Pharmaceuticals, Inc. v. Xiaopeng Zhou*, WIPO Case No. [D2024-1699](#); *Tenaris Connections BV v. Domain Admin, HugeDomains.com*, WIPO Case No. [D2018-1849](#).

The Panel finds the third element of the Policy has not been established.

7. Decision

For the foregoing reasons, the Complaint is denied.

/John Swinson/

John Swinson

Sole Panelist

Date: September 24, 2024