

ADMINISTRATIVE PANEL DECISION

ClickHouse, Inc. v. Contact Privacy Inc. Customer 1249012455 /

Alma Bioscience

Case No. D2022-1097

1. The Parties

The Complainant is ClickHouse, Inc., United States of America (“United States”), represented by O’Melveny & Myers, LLP, United States.

The Respondent is Contact Privacy Inc. Customer 1249012455, Canada / Alma Bioscience, United States.

2. The Domain Name and Registrar

The disputed domain name <clickhousecloud.com> is registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 30, 2022. On March 31, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 31, 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 1, 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 6, 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 April 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 26, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 26, 2022.

The Center appointed Evan D. Brown as the sole panelist in this matter on May 13, 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 in the business of providing software and related services. It owns the trademark CLICKHOUSE for which it enjoys the benefit of registration in multiple jurisdictions, including the United States (Reg. No. 6,177,220, registered on October 20, 2020). The Complainant has used the CLICKHOUSE mark in commerce for several years, having released an open source version of the software in 2016.

According to the Whois records, the disputed domain name was registered on January 1, 2021. The Respondent has used the disputed domain name to resolve Internet users to the website of a competitor of the Complainant, which the Complainant claims advertises its own services in competition with the those offered under Complainant's registered CLICKHOUSE trademark, and uses the Complainant's registered CLICKHOUSE trademark to connote a sponsorship, affiliation, and/or endorsement between itself and the Complainant when no such relationship in fact exists.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant's trademark; that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and that the disputed domain name was registered and is being used in bad faith.

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 listed in paragraph 4(a) of the Policy have been satisfied: (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 Panel finds that all three of these elements have been met in this case.

A. Identical or Confusingly Similar

This element requires the Panel to consider two issues: first, whether the Complainant has rights in a relevant mark; and, second, whether the disputed domain name is identical or confusingly similar to that mark. This element under the Policy functions primarily as a standing requirement. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

The disputed domain name incorporates the CLICKHOUSE mark in its entirety. This is sufficient for showing confusing similarity under the Policy. The additional word "cloud" within the disputed domain name does not prevent a finding of confusing similarity.

The Panel finds that the Complainant has established this first element under the Policy.

B. Rights or Legitimate Interests

The Panel evaluates this element of the Policy by, first looking to see whether the Complainant has made a *prima facie* showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainant makes that showing, the burden of production of demonstrating rights or legitimate interests shifts to the Respondent (with the burden of proof always remaining with the Complainant).

On this point, the Complainant asserts, among other things, that: (i) it has not authorized, licensed, or otherwise permitted the Respondent to use the CLICKHOUSE mark in the disputed domain name, (ii) the Respondent has not been known by the Complainant's CLICKHOUSE mark, and (iii) using the Complainant's mark in a confusingly similar domain name to resolve to a competitor's website does not confer legitimate rights upon the Respondent.

The Panel finds that the Complainant has made the required *prima facie* showing. The Respondent has not presented evidence to overcome this *prima facie* showing. Nothing in the record otherwise tilts the balance in the Respondent's favor.

Accordingly, the Panel finds that the Complainant has established this second element under the Policy.

C. Registered and Used in Bad Faith

The Policy requires a complainant to establish that the disputed domain name was registered and is being used in bad faith. The Policy describes several non-exhaustive circumstances demonstrating a respondent's bad faith registration and use. Under paragraph 4(b)(iv) of the Policy, a panel may find bad faith when a respondent "[uses] the domain name to intentionally attempt to attract, for commercial gain, Internet users to [respondent's] website or other online location, by creating a likelihood of confusion with complainant's mark as to the source, sponsorship, affiliation, or endorsement of [respondent's] website or location or of a product or service on [the respondent's] website or location".

Given the Complainant's trademark registration of the word CLICKHOUSE, and its use of that mark in commerce for at least five years prior to the registration of the disputed domain name, the Panel finds it more likely than not that the Respondent was aware of the CLICKHOUSE mark when it registered the disputed domain name, and was thereby targeting the Complainant. In the circumstances of this case, such a showing is sufficient to establish bad faith registration of the disputed domain name.

Bad faith use is shown from how the Respondent uses the disputed domain name to resolve Internet users to the website of a competitor of the Complainant. See *Beronata Services Ltd v. Private Registration, Account Privacy / Suren Akopian*, WIPO Case No. [D2017-1796](#) ("[R]edirecting to another domain name which provides competing services, was to attract Internet users to the Respondent's website for commercial gain, by creating a likelihood of confusion with the Trade Mark as to the source, sponsorship, affiliation, or endorsements of the Respondent's website. This is evidence of bad faith registration and use.").

The Panel finds that the Complainant has established this third element under the Policy.

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 <clickhousecloud.com> be transferred to the Complainant.

/Evan D. Brown/

Evan D. Brown

Sole Panelist

Date: May 17, 2022