

ADMINISTRATIVE PANEL DECISION

Intertrust Group B.V. v. Contact Privacy Inc. Customer 1244388251 / Steve Gold

Case No. D2022-1113

1. The Parties

The Complainant is Intertrust Group B.V., Netherlands, represented by Merkenbureau Knijff & Partners B.V., Netherlands.

The Respondent is Contact Privacy Inc. Customer 1244388251 / Steve Gold, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <intretrustgroup.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 31, 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 April 1, 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 11, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant submitted an amendment to Complaint on April 12, 2022.

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 April 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 11, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 3, 2022.

The Center appointed Torsten Bettinger as the sole panelist in this matter on June 10, 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 a publicly traded international trust and corporate management company based in the Netherlands.

The Complainant owns a number of registrations for the INTERTRUST word and design marks, including the following:

- Benelux registration no. 467460 INTERTRUST (word) registered on May 1, 1990, for services in Classes 35, 36, and 45;
- Benelux registration no. 1411968 INTERTRUST (figurative) registered on May 19, 2020, for services in Classes 35, 36, and 45;
- International registration no. 1561640 INTERTRUST (figurative) registered on August 19, 2020, for services in Classes 35, 36, and 45, designating amongst others Australia, Canada, European Union and United States.

The disputed domain name was registered on December 4, 2021, and resolves to an inactive website. The disputed domain name is used in a fraudulent email scheme impersonating one of the Complainant's employees.

5. Parties' Contentions

A. Complainant

The Complainant states that it is the largest trust office in the Netherlands with locations in North America, South America, Europe, Asia, and the Middle East.

The Complainant provided evidence that the Respondent has sent at least two emails using the Complainant's INTERTRUST logo and company address details and the "@intretrust.com" extension impersonating the Complainant's employees and enquiring about the status of payment of invoices. The invoices have been modified to change the Complainant's bank details.

The Complainant contends that each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case.

With regard to the requirement of identity or confusing similarity between the trademark and the disputed domain name pursuant to paragraph 4(a)(i) of the Policy, the Complainant asserts that:

- the disputed domain name is identical to or confusingly similar with the Complainant's INTERTRUST trademark since the disputed domain name differs from the trademark only by the change of the order of the two letters "er" to "re", which is a typical typosquatting registration;
- the added term "group" in the disputed domain name does not differentiate the infringing domain name from the Complainant's INTERTRUST mark.

With regard to the Respondent having no rights or legitimate interests in the disputed domain name, the Complainant submitted that:

- the Respondent is not a licensee or authorized agent of the Complainant or in any other way authorized to use the Complainant's trademarks and nothing suggests that the Respondent has been commonly known by the disputed domain name;

- the Respondent does not use the disputed domain name for *bona fide* offerings of goods or services or for making a legitimate noncommercial or fair use of the infringing domain name, but is engaged in a phishing scheme by sending emails using the Complainant's INTERTRUST logo and company address details and the "@intretrust.com" extension impersonating the Complainant's employees and enquiring about the status of payment of invoices which have been modified to change the Complainant's bank details.

Finally, with regard to the disputed domain name having been registered and being used in bad faith, the Complainant argues that:

- the Respondent's use of the disputed domain name, uses the Complainant's trademark and logo, address/contact details, and impersonating one of its employees, is evidence that the Respondent had actual knowledge of the Complainant's INTERTRUST marks prior to registering the disputed domain name;

- by enquiring about the payment status of certain invoices by email, the Respondent pretends to be the Complainant for financial gain and creates confusion with the Complainant's own offering of services, and benefits the Respondent financially in bad faith.

- The Respondent's phishing activities are clear evidence of registration and use of the infringing domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated that it owns multiple trademark registrations for the mark INTERTRUST.

It is well-established that the test of identity or confusing similarity under the Policy is confined to a comparison of the disputed domain name and the trademark alone, independent of the products for which the trademark is used or other marketing and use factors usually considered in trademark infringement cases. (See sections 1.1.2 and 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").)

In this case, the only difference between the disputed domain name and the Complainant's trademark is the order of the two letters "er" changed to "re", and the addition of the term "group".

The Panel agrees with the Complainant that misspellings such as the change of order of two letters does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark pursuant to the Policy, but is a typical typosquatting registration which is designed to confuse internet users seeking or expecting the Complainant.

Moreover, it has been held in many UDRP decisions and has become a consensus view among panelists (see section 1.8 of the [WIPO Overview 3.0](#)), that the addition of other terms (whether, e.g., descriptive or otherwise) does not prevent the finding of confusing similarity under the first element of the UDRP. Accordingly, the addition of the term "group" does not dispel the confusing similarity arising from the incorporation of the misspelled Complainant's INTERTRUST trademark in the disputed domain name.

Finally, it is well accepted in past UDRP decisions that the generic Top-Level Domain (“gTLD”), such as “.com”, “.net”, “.org”, is typically not to be taken into account when assessing the issue of identity and confusing similarity, except in certain cases where the applicable gTLD may itself form part of the relevant trademark (see section 1.11 of the [WIPO Overview 3.0](#)).

For the foregoing reasons the Panel concludes that the disputed domain name is confusingly similar to the Complainant’s INTERTRUST trademark.

B. Rights or Legitimate Interests

Pursuant to paragraph 4 (c) of the Policy a respondent may establish its rights or legitimate interests in the domain name, among other circumstances, by showing any of the following elements:

- “(i) before any notice to you [the Respondent] of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) you [the Respondent] (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you [the Respondent] are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

The Complainant has asserted and presented evidence that the Respondent sent at least two emails using Complainant’s INTERTRUST logo and company (address) details and the “@intretrust.com” extension impersonating Complainant’s employees and enquiring about the status of payment of invoices which have been modified to change the Complainant’s bank details.

The Complainant also contends that it has not authorized or licensed the Respondent to use the Complainant’s INTERTRUST trademark in any way.

These assertions and evidence are sufficient to establish a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

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 disputed domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent chose not to contest the Complainant’s allegations and has failed to come forward with any evidence to refute the Complainant’s *prima facie* showing that the Respondent lacks rights or legitimate interests. The Panel therefore accepts these allegations as undisputed facts.

From the record in this case, the Respondent has also not used the disputed domain name in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. Rather, the evidence demonstrates that the Respondent has used the disputed domain name for a phishing scheme in connection with an email address impersonating the Complainant.

The Panel therefore concludes that the Respondent has no rights or legitimate interest in the disputed domain name and that, accordingly, the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides four, non-exclusive, circumstances that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the Respondent has registered or has acquired the disputed domain name primarily for the purpose of selling, renting or otherwise transferring the disputed domain name registration to the Complainant who is the owner of the trademark or service mark or to a competitor of the Complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the disputed domain name; or
- (ii) the Respondent has registered the disputed domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or
- (iii) the Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location.

The Complainant holds multiple trademark registrations for the INTERTRUST mark that predate the registration of the disputed domain name.

Given that the Complainant's INTERTRUST mark was widely known at the time the Respondent registered the disputed domain name and that that the disputed domain name appears on the fact to be a misspelling, typosquatting registration of the Complainant's INTERTRUST mark, it is inconceivable that the Respondent coincidentally registered the disputed domain name without any knowledge of the Complainant and its INTERTRUST mark.

The Panel therefore concludes that the Respondent registered the disputed domain name in bad faith.

Based on the record in this proceeding it is also undisputed that the Respondent has sent at least two emails using the Complainant's INTERTRUST logo and company (address) details and the "@intretrust.com" extension impersonating the Complainant's employees and enquiring about the status of payment of invoices which have been modified to change the Complainant's bank details.

It has been long established under the UDRP that the concept of use is not confined to the use of a domain name in connection with website content displayed at a disputed domain name. In recent years, with the global rise in cybercrime, domain names have been employed in connection with email fraud schemes. In such a scenario, the registrant utilizes an email address connected to the domain name, which has been selected specifically either for its similarity to a known trademark or to impersonate the trademark holder whose mark is included in the text of the domain name, for the illicit profit of the domain name holder.

It is therefore consensus that also the use of domain name for fraudulent phishing emails attempting to impersonate employees of the Complainant and to mislead recipients also fall under the concept of use of a domain name in bad faith pursuant to 4(b) of the Policy. (See, e.g., *B & H Foto & Electronics Corp. v. Whois Privacy Protection Service, Inc. / Jackie Upton*, WIPO Case No. [D2010-0841](#)).

Accordingly, the Panel finds that the Respondent has registered and used the disputed domain name in bad faith and that therefore the Complainant has also satisfied the requirements of paragraph 4(a)(iii) of 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, <intretrustgroup.com> be transferred to the Complainant.

/Torsten Bettinger/

Torsten Bettinger

Sole Panelist

Date: June 27, 2022