

ADMINISTRATIVE PANEL DECISION

British American Tobacco (Brands) Limited v. Proxy Protection LLC /
Isreal S Conteh
Case No. D2022-1792

1. The Parties

The Complainant is British American Tobacco (Brands) Limited, United Kingdom, represented by Demys Limited, United Kingdom.

The Respondent is Proxy Protection LLC, United States of America (“United States”) / Isreal S Conteh, Gambia (the).

2. The Domain Name and Registrar

The disputed domain name <career-bat.com> is registered with DreamHost, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 18, 2022. On May 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 19, 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 May 20, 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 May 20, 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 June 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 27, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 28, 2022.

The Center appointed Andrew F. Christie as the sole panelist in this matter on July 18, 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 British multinational cigarette and tobacco manufacturing company, headquartered in London, United Kingdom. The Complainant claims that it is the largest publicly traded tobacco company in the world. The Complainant was founded in 1902, and now operates in around 180 countries and employs over 95,000 staff. In 2021, it reported revenues of GBP 25.684 billion.

The Complainant is the owner of a large global portfolio of trademark registrations for the word trademark BAT, including United Kingdom Trademark Registration No. 2135480 (filed on June 11, 1997, and entered into the register on February 27, 1998).

The Complainant operates a website at “www.bat.com”. The Complainant operates a careers-specific website at the sub-domain “www.careers.bat.com”, which it uses to advertise vacancies and other career opportunities throughout its business.

The disputed domain name was registered on February 7, 2022. The Complainant has provided a copy of an email dated March 30, 2022, with the subject line including the text “BAT Australia Letter of Employment {Offer Letter}”, sent from an email address using the disputed domain name and purporting to be from a recruitment manager in the Complainant’s human resources team. The person named as the sender of the email is not an employee of the Complainant, and the employment opportunity referred to in the email does not exist. The Complainant has also provided a screenshot, taken on May 18, 2022, of the web page resolving from the disputed domain name which states “Hmmm ... can’t reach this page”. At the time of this decision, it appears that the disputed domain name does not resolve to an active website.

5. Parties’ Contentions

A. Complainant

The Complainant made the following contentions to establish that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights. The additional adornment “career” is descriptive and generic and does nothing to distinguish the disputed domain name from the Complainant’s trademark. The generic Top-Level Domain (“gTLD”) “.com” is required only for technical reasons and can be ignored for the purposes of comparison of the disputed domain name to the Complainant’s trademarks.

The Complainant made the following contentions to establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has found no evidence that the Respondent has been commonly known as “bat” or “career bat” prior to or after the registration of the disputed domain name. The Respondent is not a licensee of the Complainant and has not received any permission or consent from the Complainant to use its trademark or company name, or to offer employment opportunities on the Complainant’s behalf. The Complainant has found no evidence that the Respondent owns any trademarks incorporating the terms “bat” or “career-bat”, or that the Respondent has ever traded as “bat” or “career-bat”. The disputed domain name has not been used in connection with any legitimate noncommercial or fair use, without intent for commercial gain; rather, it has been used in connection with an advance fee fraud scam. The Complainant can conceive of no circumstances in which the appropriation of its trademark within the disputed domain name for the purposes of fraud (or, indeed, any other purpose) could be considered a *bona fide* use.

The Complainant made the following contentions to establish that the disputed domain name was registered and is being used in bad faith. The disputed domain name has been used for the purposes of advance fee fraud, and was picked precisely because it is confusingly similar to the Complainant's trademark, and to the address of the Complainant's own careers portal at "www.careers.bat.com". The Respondent registered the disputed domain name to ensure that potential victims of the scam would think any email correspondence sent from the disputed domain name originated from the Complainant. The disputed domain name is confusing in and of itself, and this confusion is considerably exacerbated by the use of the disputed domain name for fraud. Given the incorporation of the Complainant's trademark as the most dominant element of the disputed domain name, the Complainant can envisage no circumstances in which the disputed domain name could be registered and used in good faith in terms of the Policy.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

Once the gTLD ".com" is ignored (which is appropriate in this case), the disputed domain name consists of the Complainant's registered word trademark BAT preceded by the word "career" and a hyphen. The Complainant's trademark is clearly recognizable within the disputed domain name. The addition of the word "career" and a hyphen does not avoid a finding of confusing similarity of the disputed domain name with the trademark.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Respondent is not a licensee of the Complainant, is not otherwise affiliated with the Complainant, and has not been authorized by the Complainant to use its BAT trademark. The Respondent has not provided any evidence that it has been commonly known by, or has made a *bona fide* use of, the disputed domain name, or that it has, for any other reason, rights or legitimate interests in the disputed domain name. The evidence provided by the Complainant shows that the disputed domain name does not resolve to an active website but, rather, has been used in an email address by someone purporting, falsely, to be a recruitment employee of the Complainant. Given the confusing similarity of the disputed domain name to the Complainant's trademark, the absence of any relationship between the Respondent and the Complainant, and the failure to avoid the implied false affiliation with the Complainant, the Respondent's use of the disputed domain name is neither a *bona fide* use nor a legitimate noncommercial or fair use.

The Complainant has put forward a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, and the Respondent has not rebutted this. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The disputed domain name was registered many years after the Complainant first registered its BAT trademark. It is inconceivable that the Respondent registered the disputed domain name ignorant of the existence of the Complainant's trademark, given that the disputed domain name consists of the Complainant's trademark with merely the addition of the word "career" and a hyphen, and that the Respondent used the disputed domain name in an email address from which it sent an email purporting to be from a recruitment employee of the Complainant.

Given the Respondent's lack of rights or legitimate interests in the disputed domain name and the confusing similarity of the disputed domain name to the Complainant's trademark, any use of the disputed domain name by the Respondent almost certainly implies an affiliation with the Complainant that does not exist. The Respondent's registration of the disputed domain name in these circumstances is a bad faith registration.

Furthermore, the evidence on the record provided by the Complainant indicates that the Respondent has used the disputed domain name in an attempted fraud, by seeking to create confusion in the minds of the public as to an association between the Complainant and an email sent by the Respondent from an email address using the disputed domain name. The Respondent's use of the disputed domain name in this manner is a bad faith use.

Accordingly, the Panel finds that the disputed domain name has been registered and is being used in bad faith.

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, <career-bat.com>, be transferred to the Complainant.

/Andrew F. Christie/

Andrew F. Christie

Sole Panelist

Date: August 1, 2022