

ADMINISTRATIVE PANEL DECISION

Meadowbrook, Inc. v. Withheld for Privacy ehf, Privacy service provided by Withheld for Privacy ehf / James Maxwell, Maxwell's Colors And Media Company
Case No. D2022-2083

1. The Parties

Complainant is Meadowbrook, Inc., United States of America ("United States"), represented by Carlson, Gaskey & Olds, P.C., United States

Respondent is Withheld for Privacy ehf, Privacy service provided by Withheld for Privacy ehf, Iceland / James Maxwell, Maxwell's Colors And Media Company, United States.

2. The Domain Name and Registrar

The disputed domain name <centurysuretybondcompany.com> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 8, 2022. On June 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 9, 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 Complainant on June 14, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on June 17, 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 Respondent of the Complaint, and the proceedings commenced on June 20, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 10, 2022. Respondent did not submit any response. Accordingly, the Center

notified Respondent's default on July 12, 2022.

The Center appointed Brian J. Winterfeldt as the sole panelist in this matter on July 21, 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

Complainant Meadowbrook, Inc. ("Complainant" or "Meadowbrook") is an underwriter of insurance in the fields of surety bonds, environmental bonds, environmental damage, worker's compensation, commercial general liability, and commercial property. Founded in 1978, Complainant has significantly expanded its insurance underwriting services. For decades, Complainant has continuously maintained its CENTURY INSURANCE GROUP brand and trademarks through extensive use and protection. Complainant's brand, trade name, and other intellectual property are the result of significant investment.

Complainant owns one trademark registration for the CENTURY INSURANCE GROUP mark (the "Mark"), with registration details as follows:

- CENTURY INSURANCE GROUP, United States Reg. No. 2,582,518, registered on June 18, 2002.

Complainant has continuously used the CENTURY INSURANCE GROUP mark in connection with insurance underwriting since at least September 2000. Complainant also claims common law rights in the mark CENTURY SURETY COMPANY in connection with insurance underwriting. Complainant has been using the CENTURY SURETY COMPANY mark since at least as early as November 1999. Complainant also owns and operates the <centurysurety.com> domain name, which it has continuously used in commerce since at least as early as November 1999. The disputed domain name was registered on January 16, 2022. The disputed domain name resolves to a webpage that is being used to impersonate Complainant by listing Complainant's address and a phone number with Complainant's area code and by using the CENTURY SURETY COMPANY brand name and trademark while claiming to offer insurance underwriting services.

5. Parties' Contentions

A. Complainant

According to Complainant, the disputed domain name is identical or confusingly similar to Complainant's CENTURY INSURANCE GROUP and CENTURY SURETY COMPANY marks in which Complainant claims rights as demonstrated through its cited registration and provided common law evidence. The Mark was adopted and has been continuously used since at least as early as 2000 in connection with insurance underwriting. Complainant maintains its online presence through its website hosted at its domain name <centurysurety.com>.

Complainant argues that the disputed domain name is confusingly similar to Complainant's registered service mark CENTURY INSURANCE GROUP and common law service mark CENTURY SURETY COMPANY and Complainant's domain name <centurysurety.com>. Complainant argues that, even though the disputed domain name is not identical to Complainant's service marks CENTURY INSURANCE GROUP and CENTURY SURETY COMPANY, "CENTURY" is the dominant feature of each mark, and Respondent is using the disputed domain name to offer insurance underwriting services. Complainant argues that, due to the similarity of the disputed domain name to Complainant's company name and prior trademarks, Internet users will obviously and wrongly think that the disputed domain name belongs to Complainant or has been registered in its name. Complainant argues that a likelihood of confusion is therefore undeniable and is reinforced by Respondent's impersonation and explicit offering of insurance underwriting services.

Complainant asserts that Respondent lacks any rights or legitimate interests in the disputed domain name. According to Complainant, Respondent does not have any trademark rights to the Mark. Complainant alleges that Respondent is using the disputed domain name to impersonate Complainant, as Respondent's website lists Complainant's address and a phone number with Complainant's area code. Complainant also asserts that it has not granted Respondent, by license or otherwise, permission to use the Mark in any way. Complainant argues that the disputed domain name was registered by Respondent without Complainant's consent.

Complainant argues that Respondent both registered and is using the disputed domain name in bad faith. According to Complainant, Respondent registered and used the disputed domain name intentionally in an attempt to attract Internet users and consumers looking for legitimate Century Insurance Group services to its website for Respondent's illicit commercial gain, whether by fraudulently selling insurance underwriting services or other illicit means, by creating a likelihood of confusion with Complainant's trademarks. Complainant argues that the mere fact that Respondent has registered the disputed domain name, which Complainant asserts is confusingly similar to the CENTURY INSURANCE GROUP mark, is alone sufficient to give rise to an inference of bad faith. Complainant further argues that Respondent's website is being used to impersonate Complainant by listing Complainant's address and a phone number with Complainant's area code while claiming to offer insurance underwriting services. Complainant argues that such actions clearly show the disputed domain name was registered and is being used in bad faith.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under paragraphs 5(f) and 14(a) of the Rules, the effect of a default by a respondent is that, in the absence of exceptional circumstances, the panel shall proceed to a decision on the basis of the complaint.

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

A respondent's default does not by itself satisfy a complainant's burden of proof and is not necessarily an admission that the complainant's allegations are true. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). Thus, even though Respondent has failed to address Complainant's contentions, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence. See, e.g., *The Knot, Inc. v. In Knot We Trust LTD*, WIPO Case No. [D2006-0340](#).

A. Identical or Confusingly Similar

A national or international trademark registration is *prima facie* evidence that the holder has the requisite rights in the registered mark for purposes of paragraph 4(a)(i) of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Complainant has provided evidence that it owns a trademark registration for the CENTURY INSURANCE GROUP trademark as referenced above. Therefore, Complainant has established that it has rights in the Mark.

The remaining question under the first element of the Policy is whether the disputed domain name (typically disregarding the Top-Level Domain (“TLD”) in which the domain name is registered) is identical or confusingly similar to Complainant’s mark. It is well accepted that the first element functions primarily as a standing requirement and that the threshold test for confusing similarity involves a “reasoned but relatively straightforward comparison between the complainant’s trademark and the disputed domain name”. [WIPO Overview 3.0](#), section 1.7. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark, or at least a dominant feature of the relevant mark, is recognizable within the disputed domain name. *Id.*

Here, the disputed domain name incorporates the dominant feature of the Mark, “CENTURY” and adds only the terms “surety,” “bond,” and “company.” A side-by-side comparison of the Mark and the disputed domain name reveals that the dominant feature of the Mark is easily identifiable within the disputed domain name.

Therefore, the Panel finds that Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its trademark rights and showing that the disputed domain name is confusingly similar to its CENTURY INSURANCE GROUP mark.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, Complainant must make at least a *prima facie* showing that Respondent possesses no rights or legitimate interests in the disputed domain name. See [WIPO Overview 3.0](#), section 2.1. Once Complainant makes such a *prima facie* showing, the burden of production shifts to Respondent, though the burden of proof always remains on Complainant. If Respondent fails to come forward with evidence showing rights or legitimate interests, Complainant will have sustained its burden under the second element of the UDRP.

Paragraph 4(c) of the Policy lists the ways that Respondent may demonstrate rights or legitimate interests in the disputed domain name:

- (i) before any notice of the dispute, Respondent’s use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) Respondent (as an individual, business or other organization) has been commonly known by the disputed domain name, even if it has acquired no trademark or service mark rights; or
- (iii) Respondent is 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 trademark or service mark at issue.

Here, Complainant has alleged that Respondent has no rights or legitimate interests in the disputed domain name, noting *inter alia* that the disputed domain name is being used to impersonate Complainant. It is well accepted that the use of a domain name for illegal activity (*e.g.*, impersonation/passing off) can never confer rights or legitimate interests on a respondent. See [WIPO Overview 3.0](#), section 2.13.

Respondent has failed to come forward with any evidence showing rights or legitimate interests. Respondent has not submitted any arguments or evidence to rebut Complainant’s contention that Respondent is not an assignee or licensee of Complainant and that Respondent has no other business relationship with Complainant. Complainant has contended that Respondent is not commonly known by the disputed domain name and that there is no evidence that Respondent has established trademark rights in the disputed domain name. Again, Respondent has not provided any evidence or arguments to demonstrate that it has such rights.

Accordingly, the Panel finds that Respondent does not have any rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

Bad faith is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. Paragraph 4(b) of the Policy provides that any one of the following non-exclusive scenarios constitutes evidence of a respondent's bad faith:

(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has registered the 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 domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the 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.

Here, Respondent's actions align with 4(b)(iv) of the Policy. The disputed domain name contains the dominant feature of the CENTURY INSURANCE GROUP mark, with the addition of the terms "surety," "bond," and "company." Due to the established nature of Complainant's brand, evidenced by its trademark registration for CENTURY INSURANCE GROUP, along with the unauthorized use of the Mark in the disputed domain name, and the impersonation of Complainant via Respondent's website, Respondent was undoubtedly aware of Complainant and the Mark when it registered the disputed domain name. Respondent's use of the Mark in the disputed domain name in connection with Respondent's website, through which Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website and the insurance underwriting services that Respondent claims to offer, clearly evidences bad faith on the part of Respondent in the registration and use of the disputed domain name.

This Panel therefore finds that Respondent acted in bad faith by its registration and use of the disputed domain name, intentionally creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of Respondent's website with the purpose of attracting Internet users for commercial gain as per paragraph 4(b)(iv) 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 <centurysuretybondcompany.com> be transferred to Complainant.

/Brian J. Winterfeldt/

Brian J. Winterfeldt

Sole Panelist

Date: August 4, 2022