

ADMINISTRATIVE PANEL DECISION

Stockpile, Inc. v. Privacy service provided by Withheld for Privacy ehf / Victor Vee

Case No. D2022-2122

1. The Parties

The Complainant is Stockpile, Inc., United States of America (“United States”), represented by Latham & Watkins LLP, United States.

The Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / Victor Vee, United States.

2. The Domain Name and Registrar

The disputed domain name <stockpileinvestmentsinc.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 11, 2022. On June 13, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 13, 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 June 13, 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 June 15, 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 23, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 13, 2022. The Respondent did not submit any formal response. The Center received the Respondent’s communications by email on June 13, 2022, and June 15, 2022. On July 14, 2022, the Center informed the Parties that it would proceed to panel appointment.

The Center appointed Evan D. Brown as the sole panelist in this matter on July 27, 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 promotional and financial investment services. It owns the trademark STOCKPILE which it has registered in a number of countries, including the United States (Reg. No. 4,593,157, registered on August 26, 2014). According to the Whois records, the disputed domain name was registered on December 3, 2020. The Respondent has used the disputed domain name to set up a website – which the Complainant characterizes as “nothing more than an impersonation” of the Complainant and its brand – purportedly to offer cryptocurrency investment services. The Respondent has also used the disputed domain name to display web pages featuring pay-per-click advertisements for services competitive to those of the Complainant.

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 file a formal Response or otherwise address the Complainant’s contentions on their merits but did send a series of email messages to the Center on June 13 and June 15, 2022, at first indicating it did not understand the proceedings, and then stating it would cease using the disputed domain name.

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 first 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. 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.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#). The Complainant has demonstrated its rights in the STOCKPILE mark by providing evidence of its trademark registrations.

It is standard practice when comparing a disputed domain name to a complainant's trademarks, to not take the extension into account. See [WIPO Overview 3.0](#) at 1.11.1 ("The applicable Top Level Domain ("TLD") in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.").

The disputed domain name incorporates the STOCKPILE mark in its entirety with the terms "investments", and "inc" which do not prevent a finding of confusing similarity between the disputed domain name and the Complainant's STOCKPILE mark. See [WIPO Overview 3.0](#), section 1.8. The STOCKPILE mark remains sufficiently recognizable for a showing of confusing similarity under the Policy.

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). See [WIPO Overview 3.0](#), section 2.1; *AXA SA v. Huade Wang*, WIPO Case No. [D2022-1289](#).

On this point, the Complainant asserts, among other things, that: (1) it has not authorized the Respondent to use the STOCKPILE mark in the disputed domain name, (2) use of the STOCKPILE mark in the disputed domain name is not fair use, and (3) the Respondent has not used the disputed domain name in connection with any *bona fide* offering of goods or services. Instead, the Respondent has used the disputed domain name to establish for pay-per-click advertisements and a website that imitates the Complainant by using the Complainant's marks.

Furthermore, the nature of the disputed domain name, incorporating the Complainant's widely known trademark and the words "investments" and "inc", carries a risk of implied affiliation and cannot constitute fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. *Columbia Insurance Company v. Name Redacted*, WIPO Case No. [D2022-0528](#); [WIPO Overview 3.0](#), section 2.5.1.

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. And 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 use and registration. 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 a product or service on [the respondent's] website or location".

The Panel finds, based on the available record, that the Respondent registered and is using the disputed domain name in bad faith. Registering the disputed domain name that targets the Complainant's mark and establishing a website to imitate the Complainant are a clear example of bad faith registration and use under the Policy. *Consumer Reports, Inc. v. WhoisGuard, Inc. / Semalee Bilbrey*, WIPO Case No. [D2020-2989](#).

The current redirection of the disputed domain names to pay-per-click advertisements further supports a finding that the Respondent is using the disputed domain name in bad faith. *Nu Mark LLC v. Registration Private, / Domains By Proxy, LLC / Matt Robinson*, WIPO Case No. [D2017-2085](#).

The Complainant has established the 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 <stockpileinvestmentsinc.com> be transferred to the Complainant.

/Evan D. Brown/

Evan D. Brown

Sole Panelist

Date: August 10, 2022