

ADMINISTRATIVE PANEL DECISION

Civana, LLC v. Registration Private, Domains By Proxy, LLC / Suren Harutyunyan, SV Recovery
Case No. D2022-2868

1. The Parties

The Complainant is Civana, LLC, United States of America, represented by Nelson Mullins Riley & Scarborough, L.L.P., United States of America (“United States”).

The Respondent is Registration Private, Domains By Proxy, LLC / Suren Harutyunyan, SV Recovery, United States.

2. The Domain Name and Registrar

The disputed domain name <civanahealthandwellness.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 4, 2022. On August 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 4, 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 August 5, 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 August 5, 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 August 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 4, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 7, 2022. The Center appointed

Kathryn Lee as the sole panelist in this matter on September 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 owns a resort and spa which operates under the name Civana in the Sonoan Desert in Arizona. The Complainant opened business in March 2018, and since then, the resort and spa has been recognized as USA Today Reader's Choice Top 10 Best Wellness Retreat, a US News and World Resort Top 30 Wellness Destination Worldwide, rated a AAA Four Diamond Hotel, has been featured in national publications such as Travel + Leisure, Forbes, Conde Nast Traveler, The New York Times, Reader's Digest, The Boston Globe, and Business Insider. The Complainant has a trademark registration for the CIVANA mark in the United States (Reg. No. 5746122), registered on March 22, 2017.

The Respondent appears to be an individual with an address in the United States.

The disputed domain name was registered on May 7, 2022 and resolves to a website showing pay-per-click links.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's trademark. The Complainant asserts that the disputed domain name contains the CIVANA mark in its entirety and that CIVANA is recognizable within the disputed domain name. Further, the additional terms in the misspelled descriptive phrase, "healhtandwellness", do not avoid confusing similarity, especially since these additional terms relate directly to the services which the Complainant provides using the CIVANA mark.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name and confirms that it has not authorized or licensed rights to the Respondent in any respect. The Complainant contends that the Respondent's use of the disputed domain name to display pay-per-click links does not constitute a *bona fide* offering of goods and/or services since the links are to services related to wellness, holistic healing and massage therapy, which are services offered by the Complainant, and since such use trades on the fame and reputation of the Complainant's trademark.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant contends that the misspelled phrase "healhtandwellness" relates to the Complainant's business, and therefore, shows that the Respondent knew of the Complainant and the Complainant's business when registering the disputed domain name. In addition, the Complainant contends that the Respondent's use of the disputed domain name to display pay-per-click links to the Complainant's competitors showing health and wellness related content constitutes bad faith. The Complainant also states that the Respondent did not respond to a cease and desist sent to the Respondent, which further supports an inference of the Respondent's bad faith registration and use of the disputed domain name.

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 with supporting evidence that it has rights to the trademark CIVANA. As for the disputed domain name, it consists of the CIVANA trademark in its entirety with the phrase “healhtandwellness” at the end. According to the consensus view expressed in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7, a domain name is considered confusingly similar to a trademark where it “incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name.” Here, the Complainant’s mark CIVANA is incorporated in its entirety in the disputed domain name, and thus, the disputed domain name is confusingly similar to the Complainant’s trademark.

For the reasons mentioned above, the Panel finds that the first element of paragraph 4(a) of the Policy has been established.

B. Rights or Legitimate Interests

On the basis of the present record, the Panel finds that the Complainant has made the required allegations to support a *prima facie* showing that the Respondent has no rights or legitimate interests in the disputed domain name. Once such a *prima facie* basis has been established, the Respondent carries the burden of demonstrating its rights or legitimate interests in the disputed domain name. However, the Respondent in this case has chosen to file no Response to these assertions by the Complainant, and there is no evidence or allegation in the records that would warrant a finding in favor of the Respondent on this point.

Besides, a respondent’s use of a domain name is not considered “fair” if it falsely suggests affiliation with the trademark owner. See [WIPO Overview 3.0](#), section 2.5.1. Here, the disputed domain name reproduces in its entirety the Complainant’s mark with the terms “healhtandwellness”, corresponding to the Complainant’s business field. The Panel finds that the composition of the disputed domain name carries a risk of implied affiliation. Further, the Respondent’s use of the disputed domain name for a domain parking page does not represent a *bona fide* offering of goods or services given that the disputed domain name is confusingly similar to the Complainant’s trademark and such use trades on the reputation and goodwill associated with the mark. See [WIPO Overview 3.0](#), section 2.9.

For the reasons provided above, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and that the second element of paragraph 4(a) of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel finds that there is sufficient evidence to find bad faith in this case.

First, the disputed domain name reproduces the Complainant’s trademark in its entirety. Given the fame of the CIVANA mark and active presence on the Internet, a simple Internet search would have shown information on the Complainant and its resort and spa business. Therefore, noting the composition of the disputed domain name, it is highly unlikely for the Respondent to have registered the disputed domain name without having been aware of the Complainant. The misspelled phrase “healhtandwellness” corresponds to the Complainant’s services and strongly supports the inference that the Respondent specifically targeted the Complainant in registering the disputed domain name.

In addition, the disputed domain name resolves to a domain name parking service which shows sponsored links, some directly related to the exact services of the Complainant. By doing so, the Respondent (or even third parties) may have benefited commercially from the confusion of Internet users that visited the site by mistake as per paragraph 4(b)(iv) of the Policy.

For the reasons given above, the Panel finds that the third and final element of paragraph 4(a) of the Policy has been established.

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, <civanahealhtandwellness.com>, be transferred to the Complainant.

/Kathryn Lee/

Kathryn Lee

Sole Panelist

Date: September 27, 2022