

ADMINISTRATIVE PANEL DECISION

**Bantrel Co. v. Contact Privacy Inc. Customer 7151571251 / Gabrielle Bernier,
Bantrel Constructors Co.**

Case No. D2022-3066

1. The Parties

The Complainant is Bantrel Co., Canada, represented by Norton Rose Fulbright Canada LLP, Canada.

The Respondent is Contact Privacy Inc. Customer 7151571251, Canada / Gabrielle Bernier, Bantrel Constructors Co., Canada.

2. The Domain Name and Registrar

The disputed domain name <bantrelco.com> (the “Disputed Domain Name”) is registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 19, 2022. On August 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On August 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 August 22, 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 23, 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 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 14, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 16, 2022.

The Center appointed Edward C. Chiasson K.C. as the sole panelist in this matter on September 23, 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 Bantrel Co., a corporation with its principal place of business at Calgary, Alberta, Canada.

The Complainant is an engineering, procurement, and construction (EPC) service provider with operations throughout Canada. It is one of the largest EPC firms in Canada. The Complainant provides EPC and related consulting services to the oil, gas, chemicals, power, infrastructure, mining, and metals industries across Canada and has done so since 1983.

According to the public Whois records, the Respondent is indicated as "Contact Privacy Inc. Customer 7151571251" of the organization "Contact Privacy Inc. Customer 7151571251" with a mailing address in Canada. The Registrar has disclosed the underlying registrant of the disputed domain name as "Gabrielle Bernier" of the organization "Bantrel Constructors Co." with a mailing address in Canada.

The Complainant owns the following Canadian registered trademarks for BANTREL and associated design marks: (a) trademark registration no. TMA600679 for BANTREL, registered on January 27, 2004; (b) trademark registration no. TMA600680 for the BANTREL Design, registered on January 27, 2004 (collectively, the "BANTREL Marks"). The Complainant also owns a trademark application no. 1928754 for the BANTREL Logo, applied for on November 5, 2018.

The Disputed Domain Name was registered through the Registrar on August 11, 2022. It resolves to an inactive site.

The Complainant's BANTREL Marks have become distinctive identifiers associated with the Complainant's services both in North America and internationally. The Complainant also has provided services to over 100 hundred engineering, procurement, and construction projects. Project locations predominantly include Canada and the United States of America and the Complainant has completed projects internationally, in India, Iraq, Iran (Islamic Republic of), Mongolia, and Venezuela (Bolivarian Republic of).

The Respondent has not been authorized or licensed by the Complainant to use the BANTREL Marks in any way, including in respect of the Disputed Domain Name, and has no connection or affiliation with the Complainant.

The Respondent is using the Disputed Domain Name in association with an employment-related impersonation of the Complainant and for a possible phishing scheme.

Since August 16, 2022, the Complainant has been advised by eight separate individuals that they each had received an "Offer of Employment" by mail which were not sent by the Complainant. The Employment Offers follow a nearly identical format and provides details on the purported employment offered with the Complainant, including the title, job description, work time commitment, base salary, and benefits. The Employment Offers also state that the individual is required to register for a three-day training program with "ProAct Safety" and that a cheque is enclosed to reimburse the employee for "training registration and other expenses". Each of the Employment Offers encloses a cheque with a value between CAD 4,622.43 and CAD 4,889.61 and are issued by either "Tollestrup Construction (2005) Inc." or "Nisku Nut & Bolt, a Division of Brelcor Holdings Ltd.", which the letters describe as one of their "sponsors".

The Employment Offers incorporate many of the Complainant's legitimate details and falsely suggest that they were sent by the Complainant.

On August 18, 2022, the Complainant was advised that two of the individuals who received Employment Offers deposited the enclosed cheque into their personal bank accounts. Subsequently, the Respondent emailed each individual with an email associated with the Disputed Domain Name, [...]@bantrelco.com, and requested that they provide a copy of the deposit receipt and their identification. While only one of the individuals complied with the Respondent's request, this individual has since received multiple correspondences from the Respondent requesting payment of the training funds directly.

The Complainant is aware of employment impersonation activities. They included: (a) Emails sent to a number of unsuspecting applicants from "Individual 1", [...]@bantrelgroup.com, and "Individual 2", [...]@bantrelgroup.com, claiming to be the Complainant's Director of Human Resources and Human Resources and Recruitment Specialist, respectively. These emails stated that the Complainant was considering hiring the individual recipient and requested that they complete an "Interview Form", which utilizes the Complainant's BANTREL Marks and legitimate mailing addresses and required the purported applicant to provide personal information. The Complainant does not employ and has never employed an individual named as "Individual 1", but currently employs an individual named as "Individual 2" as its Manager of Human Resources. The Complainant's Manager of Human Resources did not send or authorize the sending of these emails; (b) creating fake LinkedIn accounts and a number of false LinkedIn postings for jobs with the Complainant. The LinkedIn accounts, which have since been removed by LinkedIn, were for: (i) Individual 2, Recruiting Specialist; and (ii) Individual 1, Director of HR; (c) Numerous fake job postings on multiple job platforms have been created, which falsely describe positions with the Complainant that do not exist.

5. Parties' Contentions

A. Complainant

Based on the following facts and authorities, the Complainant asserts that the Disputed Domain Name is confusingly similar to a trademark in which the Complainant has rights.

The Disputed Domain Name wholly contains the Complainant's registered trademark BANTREL, plus the term "co". The addition of a generic word to a recognized mark to form a domain name does not dispel confusing similarity between the domain name and the mark. (WIPO Overview on WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.8).

UDRP panels have held that the addition of the term "co" does not avoid confusing similarity between a disputed domain name and a complainant's trademark. (*Enel S.p.A v. Jungyuhkook*, WIPO Case No. [D2021-3976](#)).

The addition of the term "co" to the Disputed Domain Name increases the confusion between the Disputed Domain Name and the Complainant and its BANTREL Marks, because the Complainant's legal name is "Bantrel Co." In *NCI Group, Inc. v. Natasha Godinese*, WIPO Case No. [D2015-0145](#), the panel found that the addition of the terms "group" and "inc" to the domain name "created a Domain Name that is identical to the Complainant's legal name and thus results in further confusion between the Domain Name and the Complainant and the Complainant's Marks." In *Heaven Hill Distilleries, Inc. v. Contact Privacy Inc. Customer 12410197688 / Rich Seeley*, WIPO Case No. [D2021-2806](#), the panel concluded that the domain name was identical to the complainant's legal name, Heaven Hill Distilleries, Inc., and "affirm[ed] a finding of confusing similarity" between the domain name and the complainant and its registered HEAVEN HILL trademarks.

Based on the following facts and authorities, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

The Respondent has not been authorized or licensed by the Complainant to use the BANTREL Marks in any way, including in respect of the Disputed Domain Name, and has no connection or affiliation with the Complainant.

The onus is on the Respondent to produce concrete credible evidence that it is commonly known by the Disputed Domain Name. (*Compagnie Gervais Danone v. Duxpoint and Alejandro Gomez*, WIPO Case No. [D2008-1799](#)). It has not done so.

The Disputed Domain Name was registered on August 11, 2022. There is no evidence that the Respondent has become commonly known by the Disputed Domain Name.

The Respondent has not made a *bona fide* use of the Disputed Domain Name, which was not registered until well after the Complainant had begun using and promoting the BANTREL Marks in association with its services.

The fact that the Disputed Domain Name contains the Complainant's legal name in its entirety strongly suggests an affiliation with the Complainant where none exists. The intention is to impersonate the Complainant in order misleadingly divert Internet users.

The Respondent uses the Disputed Domain Name as a part of email addresses that purport, falsely, to be email addresses of the Complainant.

By fraudulently impersonating an employee of the Complainant and sending Employment Offers to individuals who believe they have been offered employment with the Complainant, the Respondent is engaging in illegal activities: impersonation and fraud. UDRP panels have "categorically held" that such illicit activities "can never confer rights or legitimate interests on a respondent". (Section 2.13.1 of the [WIPO Overview 3.0](#)). See also *Varian Medical Systems, Inc. v. Domains by Proxy / Varian Medical*, WIPO Case No. [D2020-1123](#) and *Graybar Servinces Inc. v. Graybar Elec, Grayberinc Lawrenge*, WIPO Case No. [D2009-1017](#)).

The Complainant has demonstrated, at least, a *prima facie* case that the Respondent lacks any right or legitimate interest in the Disputed Domain Name. The onus falls on the Respondent to provide relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name, failing which, the Complainant is deemed to have satisfied this second element. (Section 2.1 of the [WIPO Overview 3.0](#)). The Respondent has not done so.

Based on the following facts and authorities, the Complainant asserts that the Disputed Domain Name was registered and is being used in bad faith.

The Respondent registered the Disputed Domain Name on August 11, 2022, when the distinctive BANTREL Marks were both registered and extensively well known in Canada and internationally.

The Respondent has used the Disputed Domain Name to impersonate the Complainant's employees.

The Disputed Domain Name was used to send Employment Offers to individuals purporting, falsely, to be sent from the Complainant. This constitutes illicit purposes, namely impersonation and fraud. Registration and use of a domain name for illegal activities is manifestly considered evidence of bad faith. This position has been affirmed recently. (*Fenwick & West LLP v. On behalf of fenwickinc.com owner, Whois Privacy Service / Aven Ahman*, WIPO Case No. [D2022-0782](#)).

The Respondent has configured an active mail exchange (MX) record on the Disputed Domain Name. Active MX records on a domain name can be considered as a factor which points to bad faith. (*Tenaris Connections BV v. Rahman Suleman*, WIPO Case No. [D2021-4396](#)).

The fact that the Disputed Domain Name does not resolve to an active website does not prevent a finding that the Respondent registered and is using the Disputed Domain Name in bad faith. UDRP panels will consider the totality of the circumstances to determine whether a domain name that is not in use supports a finding of bad faith (section 3.3 of the [WIPO Overview 3.0](#)).

The Disputed Domain Name contains the BANTREL Marks and legal name in their entirety and has been used to impersonate the Complainant. It is implausible that the Respondent is using the Disputed Domain Name in good faith. (*Archer-Daniels-Midland Company v. Soegiarto Adikoesoemo*, WIPO Case No. [D2016-1618](#)).

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has provided clear evidence that it has rights in the trademark BANTREL.

The Disputed Domain Name, <bantrelco.com>, merely adds "co" to the Complainant's BANTREL Marks, which does not prevent a finding of confusing similarity. (Sections 1.7 and 1.8 of the [WIPO Overview 3.0](#)).

The Disputed Domain Name also incorporates the Complainant's corporate name, which affirms a finding of confusing similarity between the disputed domain name and the Complainant's BANTREL Marks. (See *Heaven Hill Distilleries, Inc. v. Contact Privacy Inc. Customer 12410197688 / Rich Seeley, supra*).

The Disputed Domain Name is confusingly similar to the trademarks in which the Complainant has rights. The Panel concludes that the Complainant has established the requirements of Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

The Complainant did not authorize the Respondent to use its name and mark. The Respondent has not been identified with the Complainant's name and mark. The Respondent has advanced no explanation for using the Complainant's name and mark or any legitimate interests or rights in the Complainant's name and mark.

The Respondent has used the Disputed Domain Name, which was registered on August 11, 2022, to send unauthorized offers of employment, purportedly from the Complainant. This is not a *bona fide* use of the Disputed Domain Name. The registration and use of the Disputed Domain Name took place well after the Complainant had begun using and promoting the BANTREL Marks in association with its services.

The Panel finds that the Complainant has made out a *prima facie* case showing that the Respondent does not have rights to or legitimate interests in the Disputed Domain Name, which has not been rebutted by the Respondent. The Panel concludes that the Complainant has established the requirements of Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The Respondent registered the Disputed Domain Name in August 2022, well after the Complainant had registered its trademarks and established its reputation. The Respondent then used the Disputed Domain Name to impersonate the Complainant.

Impersonating the Complainant, the Respondent sent unauthorized job offers to unsuspecting recipients. That would appear to have been the purpose of the Respondent's registration. The impersonation includes employment offers from allegedly non-existent employees.

The evidence suggests that the Respondent is using the Disputed Domain Name in a phishing scheme to obtain the personal particulars of recipients of its employment offers.

The Respondent has registered and used the Disputed Domain Name in bad faith. The Panel concludes that the Complainant has established the requirements of Policy, paragraph 4(a)(iii).

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

/Edward C. Chiasson K.C./

Edward C. Chiasson K.C.

Sole Panelist

Date: September 30, 2022