

ADMINISTRATIVE PANEL DECISION

AA Limited and AA Brand Management Limited v. Emma Walker
Case No. D2022-3432

1. The Parties

The Complainants are AA Limited and AA Brand Management Limited, both from United Kingdom (“UK”), represented by Demys Limited, UK.

The Respondent is Emma Walker, UK.

2. The Domain Name and Registrar

The disputed domain name <theaa-breakdowncover.com> (the “Domain Name”) is registered with eNom, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 15, 2022. On September 15, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on September 16, 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 September 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 September 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 17, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 18, 2022.

The Center appointed Ian Lowe as the sole panelist in this matter on October 20, 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.

The Complaint has been brought by two entities within the same group of companies. For the reasons set out below, the Panel finds that the Complainants have a specific common grievance against the Respondent and that consolidation of their respective complaints against the Respondent in respect of the Domain Name would be fair and equitable to all parties as well as providing procedural efficiency.

4. Factual Background

The First Complainant, AA Limited, is a British motoring association founded by its predecessor in 1905, which provides car insurance, driving lessons, breakdown cover, loans, motoring advice, road maps and other services. The First Complainant operates a dedicated website for its breakdown cover service at “www.theaa.com/breakdown-cover”. The Second Complainant, AA Brand Management Limited, holds assets, such as domain name and trademark registrations, on behalf of the group companies. The First and Second Complainants are together referred to as the Complainant.

In the financial year to 2022, the Complainant served 12 million personal members and business customers with trading revenue of GBP 989 million. The Complainant operates a website at “www.theaa.com” promoting and marketing its products and services.

The Complainant is the proprietor of a global portfolio of registered trademarks in respect of its AA and related brands, including United Kingdom trademark number 362557 figurative AA mark registered on July 16, 1914, European Union trademark number 120774 figurative AA mark registered on July 14, 1999, and United Kingdom trademark number 2059928 AA registered on April 5, 2002.

In addition, the First Complainant has been commonly known as “The AA” since the foundation of its predecessor in 1905, and the Complainant has operated its website at “www.theaa.com” since at least 1997.

The Domain Name was registered on June 10, 2022. It does not presently resolve to an active website, but typically to a webpage of an Internet Service Provider warning that visiting the website at the Domain Name could lead to the user being scammed. At the time of preparation of the Complaint, when Internet users visited the Domain Name with a mobile device it resolved to a website imitating the Complainant’s login page. In addition, at that time, the Respondent sent text messages to mobile devices with the message: “Your last direct debit payment was not able to be processed. Please update your details here: theaa-breakdowncover.com”

The contact details provided by the Respondent at the time of registration of the Domain Name are false. They include what purported to be a UK address, but the provided postcode does not exist; the street address does not exist in the town of Bolton; Bolton is not in the County of Berkshire; and the given telephone number appears to be a United States of America number.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its AA and THE AA trademarks, that the Respondent has no rights or legitimate interests in respect of the Domain Name, and that the Respondent registered and is using the Domain Name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

B. Respondent

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

6. Discussion and Findings

6.1 Consolidation

As noted above, the Complaint has been brought by two entities within the same group of companies. Although paragraph 4(f) of the Policy does envisage multiple disputes between a complainant and a respondent being consolidated, neither the Policy nor the Rules provide expressly for the filing of a single complaint by multiple complainants against a single respondent. However, section 4.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") sets out the basis on which UDRP panels have accepted that a single complaint may be filed by more than one complainant against a single respondent. It notes that "in assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation."

In this case, registration of the Domain Name by the Respondent targets the rights of both Complainants and there is nothing to indicate that the Respondent might be prejudiced by the Complaint being brought jointly. In the circumstances, the Panel is satisfied the Complainants' respective complaints may be consolidated.

6.2 Substantive issues

For this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

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

A. Identical or Confusingly Similar

The Complainant has uncontested rights in its AA trademark by virtue of its trademark registrations. In addition, AA and THEAA (the "Marks") have become distinctive identifiers associated by consumers with the Complainant and its services through their widespread use for over 100 years. Ignoring the generic Top-Level Domain ("gTLD") ".com" and the hyphen, the Domain Name comprises the distinctive AA mark together with the terms "the" and "breakdown cover"; or, alternatively, comprises the THEAA mark together with the term "breakdown cover". In the view of the Panel, the additional terms do not prevent a finding of confusing similarity between the Domain Name and the Marks.

Accordingly, the Panel finds that the Domain Name is confusingly similar to trademarks in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has made out a strong *prima facie* case that the Respondent could have no rights or legitimate interests in respect of the Domain Name. The Domain Name has been used for a webpage mimicking the Complainant's log in page and in phishing texts. The Panel considers that such activity was clearly intended to trick Internet users into disclosing confidential personal and/or financial information and

could not possibly give rise to rights or legitimate interests. In the Panel's view, the Domain Name could not conceivably be used for legitimate purposes and could only have been registered to deceive Internet users into believing that it had been registered by or operated on behalf of the Complainant and for unlawful purposes, whether associated with phishing or other fraudulent activities.

The Respondent has chosen not to respond to the Complaint, to explain its registration or use of the Domain Name, or to take any other steps to counter the *prima facie* case established by the Complainant. In the circumstances, the Panel finds that the Respondent does not have any rights or legitimate interests in respect of the Domain Name.

C. Registered and Used in Bad Faith

In light of the nature of the Domain Name, there is no doubt that the Respondent had the Complainant and its rights in the Marks in mind when it registered the Domain Name. As set out above, the only possible inference is that the Respondent registered the Domain Name for commercial gain with a view to taking unfair advantage of the Complainant's rights in the Marks and to confuse Internet users into believing that the Domain Name was being operated by or authorized by the Complainant.

At the time of filing of the Complaint, there was no active use of the Domain Name such that the Respondent's use of the Domain Name may be said to amount to non-use. [WIPO Overview 3.0](#) points out at section 3.3 that UDRP panelists have consistently found that this does not prevent a finding of bad faith. Factors that panelists take into account, whilst looking at all the circumstances, include "(i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put".

The Complainant's Marks are distinctive and well-known; there has been no response to the Complaint; the Respondent registered the Domain Name using false contact details; and there is no good faith use to which the Domain Name could be put.

Accordingly, the Panel finds that the 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 Domain Name <theaa-breakdowncover.com> be transferred to the First Complainant, AA Limited.

/Ian Lowe/

Ian Lowe

Sole Panelist

Date: November 3, 2022