

ADMINISTRATIVE PANEL DECISION

Wintrust Financial Corporation v. Robert Bull Case No. D2022-4122

1. The Parties

The Complainant is Wintrust Financial Corporation, United States of America (“United States”), represented by Vedder Price P.C., United States.

The Respondent is Robert Bull, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <wfcorporations.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 November 2, 2022. On November 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 2, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 3, 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 November 8, 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 November 14, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 4, 2022. The Respondent did not submit a Response. Accordingly, the Center notified the Respondent’s default on December 7, 2022.

The Center appointed Steven A. Maier as the sole panelist in this matter on December 12, 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 a corporation registered in the state of Illinois, United States. It is a financial services provider.

The Complainant provides evidence that it is the owner of trademark registrations including:

- United States trademark registration number 2165693 for the word mark WINTRUST FINANCIAL CORPORATION, registered on June 16, 1998, in International Class 36; and

- United States trademark registration number 3933639 for the word mark WINTRUST, registered on March 22, 2011, in International Classes 35 and 36.

The disputed domain name was registered on June 1, 2022.

The Complainant submits that, prior to the date of the Complaint, the Respondent used the disputed domain name for the purposes of a website that impersonated the Complainant's own website. However, the Respondent's website having been altered before the Complaint was submitted, the Complainant has been able to exhibit only cached versions of the relevant website pages as of October 12, 2022, which record the content but not the appearance of the website at that date.

According to that evidence, however, the Respondent's website displayed the heading "Welcome to Wintrust Financial Corporation" and provided information relating to financial services as well as references to "our distinct global network". It included a section "Why Choose Wintrust?" and a contact form for visitors to complete. It also included a contact email address: "[...]@wintrustfinance.com" as well as a business address in the United States.

5. Parties' Contentions

A. Complainant

The Complainant states that it was established in 1991 and that it has been known by the name WINTRUST FINANCIAL CORPORATION since 1996. It also states that it has been known by the NASDAQ stock ticker WTFC since that date. In addition to its United States trademarks referred to above, it provides evidence of European Union registrations for the word mark WINTRUST and submits that it has used its trademarks in connection with financial services since at least 1999.

The Complainant submits that the disputed domain name is confusingly similar to a trademark in which it has rights. It contends in particular that WINTRUST FINANCIAL CORPORATION is identified by the abbreviation WTFC which is also its stock ticker. The Complainant contends that its stock ticker is immediately recognized by countless financial services professionals and investors worldwide as designating the Complainant. The Complainant submits that an abbreviation of a registered trademark in a domain name has been found in several cases under the UDRP to constitute confusingly similarity (e.g. *Credit Suisse Group v. Credit Suisse Group*, WIPO Case No. [D2005-0213](#)). The Complainant exhibits evidence that an Internet search result against the term WTFC produces numerous results relating to the Complainant (although the Panel notes that such results are likely to be region-specific).

The Complainant further submits that this is a case in which the Panel should take account of the Respondent's website content in affirming confusing similarity (see *e.g. Schering- Plough Corporation, Schering Corporation v. Dan Myers*, WIPO Case No. [D2008-1641](#)). The Complainant contends that the Respondent has clearly sought to impersonate the Complainant on its website.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has never authorized the Respondent to use its WINTRUST FINANCIAL CORPORATION or WINTRUST marks or its stock ticker WTFC. It submits that the Respondent cannot be viewed as making *bona fide* commercial use of the disputed domain name because it is using it specifically to impersonate the Complainant for the purpose of offering similar financial services.

The Complainant submits that the disputed domain name has been registered and is being used in bad faith. It contends that both the Respondent's selection and use of the disputed domain name strongly indicate an intention to impersonate the Complainant for financial gain. The Complainant contends in particular that the disputed domain name is confusingly similar to its trademarks and that the Respondent is using the disputed domain name for the purposes of a website offering services that are virtually indistinguishable from the Complainant's. The Complainant also submits that while the Respondent claims on its website to have a business address in the United States, its registration details suggest it is located in Lagos, Nigeria.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (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.

A. Identical or Confusingly Similar

The Complainant has established that it has registered trademark rights in the marks WINTRUST FINANCIAL CORPORATION and WINTRUST. The Complainant contends that it is also known by the term WTFC, being its NASDAQ stock ticker, and that an abbreviation of a trademark within a disputed domain name may be sufficient to establish confusingly similarity.

The Complainant further submits that it is proper in this case to have regard to the content of the Respondent's website for the purposes of paragraph 4(a)(i) of the Policy. Such an approach would be unusual, since the starting position for the test of confusing similarity is to make a straightforward side- by- side comparison between the disputed domain name and the trademark in question. However, as discussed in section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"):

"In specific limited instances, while not a replacement as such for the typical side- by- side comparison, where a panel would benefit from affirmation as to confusing similarity with the complainant's mark, the broader case context such as website content trading off the complainant's reputation... may support a finding of confusing similarity."

And further:

“In this context, panels have also found that the overall facts and circumstances of a case (including relevant website content) may support a finding of confusing similarity, particularly where it appears that the respondent registered the domain name precisely because it believed that the domain name was confusingly similar to a mark held by the complainant.”

In this case, as is discussed in further detail below, the Panel has no doubt that the Respondent's website represents a dishonest impersonation of the Complainant.

It is well established in jurisprudence under the UDRP that the test of confusing similarity under paragraph 4(a)(i) of the Policy exists primarily to establish the “standing” of a complainant to bring a complaint and represents a relatively low hurdle for a complainant to overcome. With this in mind, the Panel accepts that the combination of the letters “wf” with “corporations” in the disputed domain name is confusingly similar with the Complainant's trademark WINTRUST FINANCIAL CORPORATION (although the Panel does not find the stock ticker WTFC to be of particular significance, since the disputed domain name does not include the letter “t”). The Panel also finds, in this particular case, that the content of the Respondent's website affirms confusingly similarity as contemplated by paragraph 1.7 of [WIPO Overview 3.0](#).

The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

In the view of the Panel, the Complainant's submissions set out above give rise to a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file a Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. Moreover, it is clear to the Panel from the evidence submitted by the Complainant that the Respondent has used the disputed domain name for the purpose of impersonating the Complainant and its website. Such conduct cannot amount to *bona fide* use of the disputed domain name and the Panel finds in the circumstances that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The Panel concludes on the basis of the evidence submitted by the Complainant that the Respondent's website is intended to impersonate the Complainant. The Panel finds that the Complainant and its trademarks WINTRUST FINANCIAL CORPORATION and WINTRUST are known in the financial services sector and in the United States in particular. The Respondent's website purports to be operated by Wintrust Financial Corporation and offers financial services by reference to that name and to the name Wintrust.

It is clearly to be inferred in the circumstances that the Respondent registered the disputed domain name in the knowledge of the Complainant's trademarks WINTRUST FINANCIAL CORPORATION and WINTRUST and with the intention of taking dishonest advantage of the goodwill associated with those trademarks. The Panel also infers that the Respondent's website, which includes a contact form for visitors to complete, is designed for the purpose of financial gain. The Panel finds in particular that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy).

The Panel finds in the circumstances that the disputed 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 disputed domain name, <wfcorporations.com>, be transferred to the Complainant.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: December 26, 2022