

ADMINISTRATIVE PANEL DECISION

C. B. v. yekta kemal
Case No. D2023-0620

1. The Parties

The Complainant is C. B., Germany, represented by Elbkanzlei Dr. Nolting & Partner PartG, Germany.

The Respondent is yekta kemal, Türkiye.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 10, 2023. On February 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 10, 2023, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain name that differed from the named Respondent (REDACTED FOR PRIVACY, Dynadot Privacy Service) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 13, 2023, 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 amendment to the Complaint on February 17, 2023.

The Center verified that the Complaint, together with the amendment to the 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 February 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 12, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 27, 2023.

The Center appointed Adam Taylor as the sole panelist in this matter on March 31, 2023. 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 operates, or intends to operate, an online editing service for students.

On November 8, 2021, the Complainant emailed his marketing agency saying that he had selected the made-up name “correctista” for his business because the previously proposed name was legally unprotectable.

The Complainant owns European Union trade mark No. 018595875 for CORRECTISTA, filed on November 9, 2021, registered on February 25, 2022, in classes 16, 35 and 41.

The disputed domain name was registered on November 9, 2021, and thereafter offered for sale via SEDO for USD 995.

When viewed by the Panel on April 14, 2023, the disputed domain name resolved to a webpage listing the disputed domain name for sale for USD 4,995.

The Respondent has been found to have acted in bad faith in at least two previous UDRP cases: *ALSTOM v. Super Privacy Service LTD c/o Dynadot / yekta Kemal*, WIPO Case No. [D2022-0793](#) and *Essity Hygiene and Health AB v. Super Privacy Service LTD c/o Dynadot / Yekta Kemal*, WIPO Case No. [D2020-2899](#).

5. Parties' Contentions

A. Complainant

The following is a summary of the Complainant's contentions.

The disputed domain name is identical to the Complainant's trade mark.

The Respondent lacks rights or legitimate interests in the disputed domain name, which was registered and is being used in bad faith.

The name “correctista” is fictitious.

The disputed domain name was registered at 11.43am on November 9, 2021, only 32 minutes before the Complainant filed its trade mark application on the same day at 12.43pm.

The Respondent acquired the disputed domain name primarily for the purpose of sale to the Complainant, based on insider knowledge.

As of November 8, 2021, the Complainant and his marketing agency were in dispute about which should bear the costs incurred in relation to the previous name. On the same day, the Complainant attempted to register the (then-available) disputed domain name using an account shared with the agency but was unable to do so as he did not have the correct account credentials. The agency failed to comply with the Complainant's request to transfer the account to the Complainant and, the next day, the disputed domain name was registered by the Respondent.

Only the Complainant and the agency had knowledge of the Complainant's intention to use the word “correctista”.

Given the timing, it is reasonable to assume that the disputed domain name was registered by the marketing agency.

Alternatively, the disputed domain name constitutes passive holding in bad faith for the following reasons.

The Complainant's trade mark is distinctive and is being used for an online shop at "www.correctista.de".

This Respondent has not filed a response because he is a cybersquatter who registered the disputed domain name for sale in bad faith.

The Respondent failed to respond to an email to the email address supplied by the Registrar and appears to have provided a false address.

The Respondent must have somehow discovered the Complainant's interest in the name "correctista", for example by checking Whois queries.

B. Respondent

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

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Disregarding the Top-Level Domain ("TLD") suffix, which is excluded from the comparison, the disputed domain name is identical to the Complainant's trade mark. Accordingly, the Panel finds that the Complainant has established the first element of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

As explained in section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the consensus view is that, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If not, the complainant is deemed to have satisfied the second element.

Here, the Complainant has not licensed or otherwise authorised the Respondent to use its trade mark.

Paragraph 4(c) of the Policy gives examples of circumstances which, if proved, suffice to demonstrate that a respondent possesses rights or legitimate interests.

As to paragraph 4(c)(i) of the Policy, use of the disputed domain name for a website offering the disputed domain name for sale does not constitute a *bona fide* offering in the circumstances outlined in section 6C below where the Panel has concluded that the Respondent registered the disputed domain name for the purpose of sale to the Complainant.

Nor is there any evidence that paragraphs 4(c)(ii) or (iii) of the Policy are relevant in the circumstances of this case.

The Panel finds that the Complainant has established a *prima facie* case of lack of rights or legitimate interests and there is no rebuttal by the Respondent.

For the above reasons, the Panel concludes that the Complainant has established the second element of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

While the circumstances surrounding registration of the domain name are a little obscure, what is clear is that the disputed domain name was registered the day after the Complainant coined the made-up name “correctista” and on the same day that the Complainant applied for his trade mark.

The Complainant suggests that either the disputed domain name was registered under a false name by his own marketing agency, which was the only other person/entity that he told about the Complainant’s proposed name and with whom he was in dispute, or by a third party who somehow discovered his plan.

Based on the case record, the Panel considers that most likely scenario is that the disputed domain name was registered by a third party who spotted the Complainant’s trade mark application and registered it with a view to sale to the Complainant. The Panel notes that the disputed domain name was duly listed for sale, no doubt with the Complainant in mind as the intended buyer. Furthermore, the Respondent has been found to have registered and used domain names in bad faith in at least two previous UDRP cases – see section 4 above.

The Complainant does not appear to have focussed on the possibility that it was the trade mark filing that prompted registration of the disputed domain name. It seems that the Complainant may not have fully appreciated the respective time zones in which the registration/filing occurred. While the evidence before the Panel on this point is incomplete, the Panel suspects that the trade mark filing likely occurred in an earlier time zone than that of the domain name registration.

In any case, nothing turns on the point because, even if it was some other action of the Complainant that triggered the domain name registration – such as Whois searches by the Complainant, as the Complainant speculates – it is still reasonably clear from registration of the disputed domain name one day after the Complainant coined the distinctive term “correctista” that the disputed domain name was selected to target the Complainant.

Nor would it affect the position if it transpired that the Complainant’s marketing agency was behind the registration of the disputed domain name. By secretly acquiring the disputed domain name reflecting the distinctive name that its client intended to use with a view to profiting by sale to the client, the agency would clearly have registered and used the disputed domain name in bad faith.

The Panel also notes that the Respondent has not come forward to explain or justify its registration of the disputed domain name.

In all of the above circumstances, Panel concludes that the Respondent registered the disputed domain name primarily for the purpose of sale to the Complainant in accordance with paragraph 4(b)(i) of the Policy and that the Complainant has established the third element of paragraph 4(a) of 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 <correctista.com> be transferred to the Complainant.

/Adam Taylor/

Adam Taylor

Sole Panelist

Date: April 14, 2023