

ADMINISTRATIVE PANEL DECISION

Whirlpool Properties, Inc. v. -685578 User-685578, Name Redacted
Case No. D2023-2228

1. The Parties

Complainant is Whirlpool Properties, Inc., United States of America (“U.S.”), represented by ALG India Law Offices LLP, India.

Respondent is User-685578 User-685578; Name Redacted¹.

2. The Domain Name and Registrar

The disputed domain name <whirlpool-corporation.com> (the “Domain Name”) is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 23, 2023. That same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 24, 2023, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 Respondent of the Complaint, and the proceedings commenced on May 25, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 14, 2023. Respondent did not submit any response. Accordingly, the Center

¹ Respondent appears to have used the name of a third party when registering the Domain Name. In light of the potential identity theft, the Panel has redacted Respondent’s name from this Decision. However, the Panel has attached as Annex 1 to this Decision an instruction to the Registrar regarding transfer of the Domain Name, which includes the name of Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated that Annex 1 to this Decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

notified Respondent's default on June 20, 2023. On June 14, 2023, a third party contacted the Center by email regarding the claimed unauthorized use of its identity and contact details in relation to the Domain Name in the present proceedings.

The Center appointed Harrie R. Samaras as the sole panelist in this matter on June 26, 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

Complainant was founded on November 11, 1911. It first adopted the WHIRLPOOL Mark in 1906 for use on hand-operated washing machines. In the 1949-50 timeframe, Complainant adopted the WHIRLPOOL Mark as its trade name. Complainant owns many trademark registrations worldwide for the WHIRLPOOL Mark, including: U.S. Registration Nos. 581,480 (registered October 27, 1953) and 626,550 (registered May 8, 1956). Complainant also owns several domain name registrations featuring the WHIRLPOOL Mark, including: <whirlpoolcorp.com> (created, December 10, 1998); <whirlpool.net> (created, January 16, 1999); <whirlpool.com> (created, December 10, 1998); and <whirlpoolindia.com> (created, November 01, 2000). On many of the websites associated with the domain names, Complainant disseminates information about it and its products and services.

Complainant markets and sells its products (e.g., laundry appliances, refrigerators and freezers, cooking appliances, dishwashers, air-conditioning equipment, air-purifying equipment, water filtration systems, microwaves, ovens, mixers, coffee-machines, blenders, toasters) in more than 170 countries through physical retail stores as well as online retail stores. Complainant also offers related services for its products like maintenance, trouble shooting, and customer care services under the WHIRLPOOL Mark.

As of 2022, Complainant had approximately USD 20 billion in annual sales, 61,000 employees and 56 manufacturing and technology research centers throughout the world. Over the years, Complainant has won various awards and accolades including: being featured repeatedly on the Fortune 500 List; in 2023, for the thirteenth consecutive year, recognized by Fortune Magazine as one of the World's Most Admired Companies; recognized in the Forbes Global 2000 List for the year 2022; on Forbes' 2022 List of World's Best Employers; and on Fortune's 2023 List of America's Most Innovative Companies.

The Domain Name was registered on April 12, 2023. At least two instances of fraud and impersonation attempts using the Domain Name have occurred. On April 13, 2023, an email was sent from an email address that included the name of a current executive at Complainant (which email is hosted at the Domain Name) to a representative of one of Complainant's third-party channel partners. The email states in pertinent part: "Thank you for the price quote, please find the attached PO for order processing." The email attached a purchase order and included a signature line bearing the same executive's name as in the email address and other contact information purportedly for the executive. Another fraud attempt involves a sales representative of one of Complainant's third-party channel partners who received a call from an individual who identified himself as the same executive at Complainant as in the earlier instance of fraud. The caller shared his contact information for a return call. Before the third-party channel partner (a sales representative) returned the call, he noticed that "the email domain is different than what I usually see. (...) Typically Whirlpool uses the domain "Whirlpool.com or Whirlpoolcorp.com", this email used 'Whirlpool-Corporation.com'". During the call-back from the purported executive of Complainant, the sales representative noticed that his caller ID identified someone other than who was supposed to be calling from Complainant. They requested a quote and said they would send the details to the sales representative's email inbox. The representative asked a few probing questions that all seemed "off base" during this call. The purported executive confirmed their role with Complainant and stated they were located in Michigan. However, the LinkedIn information for the purported executive with whom the representative was supposed to be talking states that they are located in Italy. The purported executive also had a different accent and voice than the real executive who the representative researched on the Internet and heard him in an

interview. The representative's Cybersecurity Team reported the discrepancy in identity and other relevant details to Complainant.

5. Parties' Contentions

A. Complainant

Complainant has statutory rights as well as common law rights in the WHIRLPOOL Mark through trademark registrations and use, and the WHIRLPOOL Mark has acquired sufficient reputation and goodwill through extensive use over a century. The Domain Name incorporates Complainant's WHIRLPOOL Mark in its entirety as a prominent component. Adding a hyphen (-) and the word "corporation" are insufficient to impart any dissimilarity between the Domain Name and the WHIRLPOOL Mark. It is well established that the applicable Top-Level Domain ("TLD") in a domain name (such as ".com") is viewed as a standard registration requirement and as such is disregarded under the first element of the Policy.

Complainant never authorized or licensed Respondent to use the WHIRLPOOL Mark in any manner. Respondent does not have any association or past dealing with Complainant. Respondent registered the Domain Name merely a month ago on April 12, 2023. To the best of Complainant's knowledge and belief, Respondent does not have any trademark registration or any other form of statutory protection for the WHIRLPOOL Mark. Complainant is also not aware of any legitimate or *bona fide* use of the WHIRLPOOL Mark or the Domain Name by Respondent. In light of Complainant's prior and global rights in the WHIRLPOOL Mark for over a century, Respondent cannot demonstrate any plausible case for securing or acquiring any rights in the WHIRLPOOL Mark, other than through authorization from Complainant. It is also implausible that Respondent is commonly known by the Domain Name in such a short span of time, without any *bona fide* use.

Respondent is not hosting any website in connection with the Domain Name for a *bona fide* purpose. It is using the Domain Name to host at least an email ID for reaching out to third parties by impersonating itself as an authorized representative of Complainant to try making illegitimate and fraudulent financial gains. Owing to the WHIRLPOOL Mark's international popularity and exclusive association with Complainant, Respondent has evidently adopted the Domain Name only to make undue and illegitimate gains by riding upon the goodwill and reputation of Complainant. It is also evident that the Domain Name was adopted with the intention of creating a false impression of association with Complainant in the minds of the public. By impersonating an authorized representative of Complainant and attempting to mislead third parties into believing that Respondent is authorized by and related to Complainant, Respondent has engaged in activities which do not fall under the exception of legitimate noncommercial use or fair use. Further, by trying to establish unauthorized trade relations with a third party under the name of Complainant, Respondent is attempting to make commercial gains from the goodwill and reputation of Complainant.

The WHIRLPOOL Mark is sufficiently distinctive of the goods and services provided under the Mark by Complainant such that Respondent had no reason to adopt or register the Domain Name incorporating the Mark. Furthermore, considering the worldwide reputation of Complainant's WHIRLPOOL Mark, Respondent ought to have knowledge, constructive if not direct, of Complainant's WHIRLPOOL Mark when registering the Domain Name. Respondent's attempt to impersonate an authorized representative of Complainant clearly indicates that Respondent not only had knowledge about Complainant but also its personnel. The intention and motivation of Respondent behind registering the Domain Name is evident from the fraudulent activities using it.

Respondent's contact information on the Whois records is evidently masked, incomplete and/or incorrect. The name of the Respondent is clearly fake and misleading. It is further clear from the email used to register the disputed domain name that the details are false. The fake details in Whois appear willful and an act of bad faith to discourage Complainant from taking action against Respondent.

While no website is currently hosted at the Domain Name, there is record evidence establishing that

Respondent is currently hosting at least one email ID on the Domain Name which, as described above, is being used for fraudulent purposes and attempting bad faith transactions through misrepresentation. This is bad faith use. The current and continued use of the Domain Name by Respondent is detrimental not only to Complainant's rights in the WHIRLPOOL Mark but will also tarnish the image of Complainant and may cause financial fraud to third parties. Even passive holding of the Domain Name continues to amount to bad faith.

Respondent has registered multiple domain names which appear to feature known marks belonging to third parties. Each of those domain names feature an address which appears to be the address of a third-party brand owner. Concealing one's identity or use of false contact details by a domain name registrant are indicators of bad faith and are also in breach of the Registration Agreement. Further, a pattern of abuse exists when a Respondent registers multiple trademark-abusive domain names corresponding to the distinct marks of individual brand owners. It is evident that the domain names registered by Respondent are very similar to prior domains registered by brand owners. The registration of such domains with false contact details clearly qualifies as a pattern of abuse practiced by Respondent.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel concludes that Complainant has rights in the WHIRLPOOL Mark by virtue of the trademark registrations cited above.

The Domain Name <whirlpool-corporation.com> is confusingly similar to Complainant's WHIRLPOOL Mark because: Complainant's Mark is clearly recognizable within the Domain Name; the Top-Level Domain is generally not determinative in establishing whether the Domain Name is confusingly similar to a complainant's mark; and adding the hyphen between WHIRLPOOL and the term "corporation" do not prevent a finding of confusing similarity with Complainant's Mark. See, *Hi-Tec Sports International Holdings B.V. v. Domain Administrator, PrivacyGuardian.org / Frank Jaeger*, WIPO Case No. [D2022-2956](#) ("The Panel notes that the disputed domain name incorporates the HI-TEC trademark in its entirety. The omission of the hyphen and the addition of the term 'Australia' do not prevent a finding of confusing similarity under Policy, Paragraph 4(a)(i)."); see also, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8 ("Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.").

For the foregoing reasons, the Panel concludes that Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Complainant maintains: (1) it never authorized or licensed Respondent to use the WHIRLPOOL Mark in any manner and Respondent does not have any association or past dealing with Complainant; (2) that to the best of its knowledge, Respondent does not have any trademark registration or any other form of statutory protection for the Mark. In light of Complainant's prior and global rights in the WHIRLPOOL Mark for over a century, Respondent cannot demonstrate any plausible case for securing or acquiring any rights in the WHIRLPOOL Mark, other than through authorization from Complainant; (3) because Respondent only recently registered the Domain Name, it is implausible that Respondent is commonly known by the Domain Name in such a short span of time, without any *bona fide* use; and (4) (5) Respondent is using the Domain Name to host at least an email ID for reaching out to third parties by impersonating itself as an authorized representative of Complainant to try making illegitimate and fraudulent financial gains by riding upon the

goodwill and reputation of Complainant.

Where, as here, Complainant has raised a *prime facie* case of Respondent's lack of any rights or legitimate interests in the Domain Name, and Respondent has failed to rebut that case, the Panel is satisfied that Complainant has carried its burden of proving that Respondent has no rights or legitimate interests in the Domain Name within the meaning of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

When Respondent registered the Domain Name on April 12, 2023, Complainant had been using the Mark for over a century. It is highly likely Respondent was aware of the Mark when it registered the Domain Name because: (1) Respondent has not shown that it has any rights or legitimate interests in the Domain Name; (2) Respondent registered a Domain Name that is confusingly similar to Complainant's Mark – a well-known mark internationally – merely adding a hyphen and the word "corporation" which reflects Complainant's status; and (3) Respondent is using the Domain Name in conjunction with an email address in a fraudulent scheme that impersonates a specific executive employed by Complainant (as set out above) for commercial gain. On the uncontroverted evidence, the Panel finds that Respondent registered the Domain Name in bad faith.

There is no plausible reason for Respondent's selection of a Domain Name that is confusingly similar to the well-known WHIRLPOOL Mark, in which Respondent has no rights or legitimate interests, other than as a deliberate attempt to profit unfairly from confusion with the Mark. See, *Intel Corporation v. The Pentium Group*, WIPO Case No. [D2009-0273](#). Furthermore, the evidence in the record provided by Complainant shows that Respondent has been using the Mark for the above-described fraudulent purpose which it appears Respondent has benefitted from or could have benefitted from financially. Respondent's use of the Domain Name as an email address in the fraudulent scheme supports a finding of bad faith use within the meaning of the Policy.

Furthermore, in deliberately providing masked and fake information in registering the Domain Name, Respondent has provided further evidence of its bad faith. The Domain Name is registered in the name of semi-conductor manufacturer who contacted the Center and claimed unauthorized use of its identity and contact details in relation to the Domain Name. The Panel believes that the Domain Name was most likely registered by a third party without the involvement of the mentioned manufacturer.

For the foregoing reasons, the Panel finds that paragraph 4(a)(iii) of the Policy has been satisfied.

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 <whirlpool-corporation.com> be transferred to Complainant.

/Harrie R. Samaras/

Harrie R. Samaras

Sole Panelist

Date: July 10, 2023