

ADMINISTRATIVE PANEL DECISION

Twin Rivers Paper Company v. Robert Harvey
Case No. D2023-2385

1. The Parties

The Complainant is Twin Rivers Paper Company, United States of America (“United States”), represented by Soteria LLC, United States.

The Respondent is Robert Harvey, United States.

2. The Domain Name and Registrar

The disputed domain name <twinriverspapercompany.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 June 1, 2023. On June 2, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 2, 2023, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 5, 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 amended Complaint on June 6, 2023.

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 June 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 27, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 29, 2023.

The Center appointed Ezgi Baklaci Gülkökar as the sole panelist in this matter on July 7, 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 Twin Rivers Paper Company is a United States based paper company that produces specialty packaging, technical, label and publishing papers as well as softwood lumber. The Complainant evidenced with the Annex 3 that, the United States trademark TWIN RIVERS PAPER COMPANY with the registration no. 3,884,231 with the registration date November 30, 2010 is owned by the Complainant.

The disputed domain name was registered on January 31, 2023. The Disputed Domain Name redirects to the website at the domain name <twinriverspaper.com>.

5. Parties' Contentions

A. Complainant

The Complainant contends that each of the three elements specified in paragraph 4(a) of the Policy is satisfied in the present case, as follows:

Identical or confusingly similar

The Complainant submits that the disputed domain name includes the Complainant's TWIN RIVERS PAPER COMPANY as a whole and the disputed domain name is confusingly similar to the Complainant's marks and domain name <twinriverspaper.com>.

Rights or legitimate interests

The Complainant argues that the Respondent is not authorized to use the Complainant's trademark and/or has no affiliation with the Complainant.

In addition, the Complainant contends that the Respondent is not known by the disputed domain name.

Furthermore, the Respondent has neither made use of the disputed domain name nor engaged in any demonstrable preparations to use it in connection with a *bona fide* offering of goods or services, instead the Respondent is using the disputed domain name to divert Internet traffic to the Complainant's website with the domain name <twinriverspaper.com>, creating a false impression that the disputed domain name is a domain name of the Complainant.

The disputed domain name was registered and used in bad faith

The Complainant initially argues that the TWIN RIVERS PAPER COMPANY is a unique trademark.

The Complainant also notes that the disputed domain name is configured to direct Internet traffic back to the Complainant's website at the domain name <twinriverspaper.com> and in the absence of legitimate interests of the Respondent in the domain name, the disputed domain name holds the potential to mount effective phishing attacks or launch scam campaigns against the Complainant's employees or clients.

In summary, the Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for a transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to the trademarks or service marks in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (ii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has demonstrated that it has well-established rights in TWIN RIVERS PAPER COMPANY trademark.

The disputed domain name identically includes the registered trademark TWIN RIVERS PAPER COMPANY belonging to the Complainant without any additional element. In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will be considered confusingly similar (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.7).

For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel accepts that the generic Top-Level Domain ("gTLD") may indeed be ignored. See [WIPO Overview 3.0](#), section 1.11.1.

In the light of the above, the Panel is in the view that the disputed domain name is identical to the Complainant's trademark and the first element of paragraph 4(a) of the Policy is satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name. While the overall burden of proof in UDRP proceedings is on the Complainant, previous UDRP panels have recognized that proving a Respondent that it lacks rights or legitimate interests in a domain name may result in the often impossible task of 'proving a negative', requiring information that is often primarily within the knowledge or control of the Respondent. As such, where a Complainant makes out a *prima facie* case that the Respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the Respondent fails to come forward with such relevant evidence, the Complainant is deemed to have satisfied the second element ([WIPO Overview 3.0](#), section 2.1) (*Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

The Panel notes that there is no evidence showing that the Respondent holds any rights for TWIN RIVERS PAPER COMPANY marks. The Panel also notes that there is no evidence showing that the Respondent is authorized or licensed to use the Complainant's trademark TWIN RIVERS PAPER COMPANY.

The case file also does not contain any evidence that the Respondent has been commonly known by the disputed domain name as an individual, business, or other organization. Further, the Panel notes that there is no evidence of the Respondent's use of, or preparation to use the disputed domain name; and there is also no evidence that the Respondent is making a legitimate noncommercial or fair use under the disputed domain name.

On the contrary, what the evidence submitted by the Complainant establishes is that the disputed domain name redirects the Internet traffic back to the website at the domain name <twinriverspaper.com>. The Panel finds that such conduct cannot by any means be accepted as legitimate noncommercial or fair use activity within the scope of the Policy.

Therefore, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name within the meaning of Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that a complainant must demonstrate that the disputed domain name has been registered and is being used in bad faith. Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's trademark ([WIPO Overview 3.0](#), section 3.1).

The Panel finds that at the time the disputed domain name was registered, the Respondent more likely than not was aware of the trademark TWIN RIVERS PAPER COMPANY as the Complainant's trademark registration predates the registration date of the disputed domain name. According to the evidence submitted by the Complainant, the Panel finds that the Respondent knew or should have known about the Complainant's rights (and such information could readily have been reached by a quick online search; see *Compart AG v. Compart.com / Vertical Axis Inc.*, WIPO Case No. [D2009-0462](#)).

In addition, previous UDRP panels have held that the mere registration of a domain name that is confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith ([WIPO Overview 3.0](#), section 3.1.4). The disputed domain name, especially considering that it identically includes the Complainant's trademark, is so obviously connected with the Complainant and its products that already its very use by the Respondent, which has no connection with the Complainant, clearly suggests the disputed domain name has been selected with a deliberate intent to create an impression of an association with the Complainant (see *General Motors LLC v. desgate.*, WIPO Case No. [D2012-0451](#))

Furthermore, the Panel finds the fact that the Respondent intentionally diverts Internet traffic to the Complainant's website at the domain name <twinriverspaper.com> also shows clear bad faith, as it creates a misleading image that there is an affiliation with the Complainant.

In light of these particular circumstances, the Panel concludes that the Complainant has succeeded in proving the requirement of paragraph 4(a)(iii) that the disputed domain name has been registered and used in bad faith by the Respondent.

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 <twinriverspapercompany.com> be transferred to the Complainant.

/Ezgi Baklaci Gülkökar/

Ezgi Baklaci Gülkökar

Sole Panelist

Date: July 21, 2023