

ADMINISTRATIVE PANEL DECISION

Community Trust Bancorp, Inc. v. bbv, moet malenn
Case No. D2023-2534

1. The Parties

The Complainant is Community Trust Bancorp, Inc., United States of America (“United States”), represented by Stites & Harbison PLLC, United States.

The Respondent is bbv, moet malenn, Netherlands.

2. The Domain Name and Registrar

The disputed domain name <community-trust.icu> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 12, 2023. On June 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 13, 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 In Whois Record / PrivacyGuardian.org llc) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 21, 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 21, 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 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 18, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 25, 2023.

The Center appointed Reyes Campello Estebarez as the sole panelist in this matter on August 15, 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

According to the Complaint, the Complainant and its predecessors has been providing banking and financial services in United States since 1903, and has used the brand COMMUNITY TRUST to promote its banking and financial services since at least as early as 1995, and on the Internet since, at least, 1998.¹ Per the Complaint, the Complainant is a publicly traded company on the NASDAQ stock exchange, and provides its services online through its official website at “www.ctbi.com”.

The Complainant owns various United States registrations for its COMMUNITY TRUST mark, including Registration No. 1,946,537, filed on September 30, 1994, and registered on January 9, 1996, in Class 36. Prior decisions under the Policy have recognized the long time use and the reputation of the Complainant’s COMMUNITY TRUST mark in United States.²

The Complainant owns the domain name <ctbi.com> (registered on January 19, 1997), which resolves to its official website that enables its customers to conduct general banking and financial transactions online.

The disputed domain name was registered on May 12, 2023, and resolves to a warning page that prevents the access to the site informing the user that it may be used for fraudulent purposes, such as to request the installation of software, or to get sensible personal information (such as passwords, phone or credit card numbers).

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the COMMUNITY TRUST mark, only incorporating a hyphen to separate its terms and the generic Top-Level Domain (“gTLD”) “.icu”.

The Respondent is not authorized to use the Complainant’s trademark, and is not commonly known by the terms “community-trust”. The disputed domain name is not used in connection with any *bona fide* offering of goods or services. The disputed domain name resolves to a warning page informing about possible nefarious uses, and it is either: (i) inactive; or (ii) active (and inappropriately functioning) resulting in use to redirect Internet users to a website that appears to support phishing activity. The name and contact information provided by the Respondent in the Whois record are inaccurate at best and, given all of the evidence, likely false.

The disputed domain name was registered and is being used in bad faith. Due to the COMMUNITY TRUST mark goodwill and renown, and the identical incorporation of this mark in the disputed domain name, the Respondent had this trademark in mind at the time of registration of the disputed domain name and deliberately registered it in bad faith. The warning page at the disputed domain name suggests the existence of nefarious activity intended to take advantage of the Complainant’s goodwill in its trademark, e.g., through a phishing site. The disputed domain name and its current use generates confusion, and disrupts the Complainant’s business. The Respondent attempts to intentionally attract, for commercial gain, Internet users to its website through this confusion.

The Complainant has cited previous decisions under the Policy that it considers supportive of its position, and requests the transfer of the disputed domain name.

¹The Panel, under its general powers articulated, *inter alia*, in paragraph 10 of the Rules, has consulted the use of the Complainant’s website at the public Internet archive WayBackMachine.

² See, e.g., *Community Trust Bancorp, Inc. v. Juwan Park, Community Trust*, WIPO Case No. [D2020-0221](#); and *Community Trust Bancorp, Inc. v. Privacy Protect LLC / Kalejaiye Rafiu, rafTechsolutions*, WIPO Case No. [D2021-0397](#).

B. Respondent

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

6. Discussion and Findings

The Complainant has made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material and allegations, and performing some limited independent research under the general powers of the Panel articulated, *inter alia*, in paragraph 10 of the Rules.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Therefore, based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent 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.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

In particular, the Panel notes that the Respondent's name (revealed by the Registrar verification) shares no similarities with the disputed domain name, and the Panel has corroborated through a search over the WIPO Global Brand Database that, according to the Complainant's allegations, the Respondent owns no trademark registration for the terms "community trust" or "community-trust".

The Panel further notes that, due to the field where the Complainant operates and the use of the disputed domain name marked as potentially fraudulent, the circumstances of this case suggest, on a balance of

probabilities, that the disputed domain name may have been registered and used in the frame of a phishing scam, or other type of fraudulent activities.

Panels have held that the use of a domain name for illegal activity (*e.g.*, the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Therefore, based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent registered the disputed domain name incorporating in its entirety the COMMUNITY TRUST mark (with the sole addition of a hyphen to separate its terms); and it provided incomplete or inaccurate information in the Whois record of the disputed domain name. According to the evidence and allegations provided by the Complainant, the Respondent's name and the contact information provided by the Respondent, does not seem to be real or to correspond to any real location respectively. Furthermore, the courier was unable to deliver the Center's written communication to the Respondent.

The Panel further notes the continuous long-term use of the Complainant's trademark and, particularly, its use over the Internet since, at least, 1998.³ The Panel has further corroborated the extensive presence of the Complainant and its trademark over the Internet, so that any search over the Internet reveals the Complainant, its financial business, and its CUMMUNIT TRUST mark. The disputed domain name was registered long after the Complainant's trademark was first used, and long after it acquired renown in United States.

All these circumstances and the use of the disputed domain name that resolves to a website that has been marked as a probably deceptive site, suggest that the disputed domain name was registered and used targeting the Complainant and its trademark in bad faith. The disputed domain name has been used to generate a false affiliation with the Complainant and its trademark, likely in an intentional attempt to attract, for commercial gain, Internet users to the Respondent's website, which constitutes bad faith under the paragraph 4(b)(iv) of the Policy.

Furthermore, paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity (*e.g.*, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name, on a balance of probabilities, may be part of a phishing scam or other type of fraudulent activities, which constitutes bad faith under the Policy.

Therefore, based on the available record, the Panel finds the third element of the Policy has been established.

³ See footnote number 1.

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, <community-trust.icu>, be transferred to the Complainant.

/Reyes Campello Estebaranz/

Reyes Campello Estebaranz

Sole Panelist

Date: August 22, 2023