

ADMINISTRATIVE PANEL DECISION

Cincinnati Bell, Inc. v. Paul Loveless
Case No. D2023-2728

1. The Parties

The Complainant is Cincinnati Bell, Inc., United States of America (“United States”), represented by Frost Brown Todd LLC, United States.

The Respondent is Paul Loveless, United States.

2. The Domain Name and Registrar

The disputed domain name <cincinnatiBell.mobi> (the “Disputed Domain Name”) is registered with Wild West Domains, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 26, 2023. On June 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On June 28, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 11, 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 July 14, 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 July 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 7, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 17, 2023.

The Center appointed Colin T. O’Brien as the sole panelist in this matter on August 24, 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 provides a wide range of telecommunications products and services to residential and business customers in Ohio, Kentucky, and Indiana.

As a result of the break-up of American Telephone & Telegraph Co., Inc. in 1983, the Complainant became one of the seven Regional Bell Operating Companies (also known as the “Baby Bells”), thereby making the Complainant a concurrent user of the BELL word mark and concurrent owner of trademark rights in the BELL word mark and corresponding federal registrations for those marks for use in connection with the Complainant’s goods and services.

Since at least as early as 1984, the Complainant has also used the Bell Marks with the modifier “Cincinnati,” resulting in its use of the mark CINCINNATI BELL in connection with its telecommunications products and services.

Cincinnati Bell owns the following Trademark Registrations in the United States in connection with its use of the BELL Marks:

CINCINNATI BELL, Registration No. 3,942,521, registered April 12, 2011, for use in connection with: telecommunication services, namely, local and long distance transmission of voice, data, graphics by means of telephone, telegraphic, cable, and satellite transmissions, in Class 38, with a first use date of January 3, 1984; providing educational services, seminars and workshops in telecommunications skills and the use of telecommunications equipment and services, in Class 41, with a first use date of January 3, 1984; designing and engineering telecommunications systems and equipment for others and related consulting services, in Class 42, with a first use date of January 3, 1984;

CINCINNATI BELL, Registration No. 5,052,989, registered October 4, 2016, for use in connection with: high-speed internet access services; next generation, higher than high-speed internet access services; providing public wireless networks for high-speed internet access for large groups; providing wireless network services for transmission of data; providing wireless network hotspot services for transmission of data; telecommunication services, namely, transmission of data by means of telecommunications networks, wireless communications networks, a metro ethernet or the Internet; video-on-demand transmissions; digital television transmission services; providing broadband internet access; voice over internet protocol (VOIP) services; pay-per-view television transmission services; cable television transmission; internet protocol television (IPTV) transmission services; telecommunication services, namely, transmission of voice, data, graphics, images, audio and video to digital video recorders, in Class 38, with a first use date of January 3, 1984; whole-home digital video recorder (DVR) services, namely, rental of a digital whole-home video recorder that allows users to pause, rewind, fast forward and record television programs in any room in the house using one digital video recorder, in Class 41, with a first use date of June, 2010;

BELL, Registration No. 1,546,153, registered on July 4, 1989 for use in connection with “telephone and business directories” in Class 16; “installing and maintaining telecommunications systems and equipment for others” in Class 37; “providing telecommunications services to others” in Class 38; and “providing educational services, seminars and workshops in telecommunications skills and the use of telecommunications equipment and services” in Class 41.

Since at least as early as August 1997, the Complainant has owned and used the <cincinnati**bell**.com> domain name. The Complainant changed its primary brand from Cincinnati Bell to AltaFiber in March of 2022 (with the <cincinnati**bell**.com> domain name now redirecting to www.alfiber.com), the Complainant still uses the Cincinnati Bell Marks in connection with its provision of telecommunications products and services.

Respondent registered the Disputed Domain Name <cincinnati**bell**.mobi> on December 12, 2022.

5. Parties' Contentions

A. Complainant

The Disputed Domain Name is identical to the Complainant's CINCINNATI BELL trademarks. Indeed, it contains the exact CINCINNATIBELL Marks - in their entirety - without any differences in sound, appearance, or form. Consequently, the Respondent's Disputed Domain Name is likely to confuse customers by suggesting that the website associated with the Disputed Domain Name is owned, operated, or sponsored by the owner of the Cincinnati Bell Marks.

The Respondent has no legitimate interest in the Disputed Domain Name. The Respondent is neither a licensee of, nor otherwise currently affiliated with, Cincinnati Bell. The Respondent is under no contractual relationship with Cincinnati Bell to distribute any services and is not partaking in a *bona fide* offering of goods and services in connection with the Disputed Domain Name.

The Disputed Domain Name was registered and is being used in bad faith, with a clear intent to profit from confusion.

The Respondent's use of the Disputed Domain Name is neither a legitimate, nor good faith, use of this domain, as it is an exact replication of the Complainant's Cincinnati Bell Marks and falsely implies that Internet browsers can go to the Disputed Domain Name to receive Cincinnati Bell telecommunication services. The Respondent registered the Disputed Domain Name in an effort to capitalize on the recognition of the Cincinnati Bell Marks by those seeking online information. The Respondent has no legitimate interest in the Disputed Domain Name. The Respondent is neither a franchisee nor otherwise affiliated with the Complainant.

Due to the assignment of mail exchange ("MX")-records for the Disputed Domain Name, coupled with the lack of an established and *bona fide* business use of the Disputed Domain Name, it can be inferred that it was set up to engage in some type of scam.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated it owns registered trademark rights in the CINCINNATI BELL mark, and has shown that no other entity has rights in or uses the Complainant's mark. The generic Top-Level Domain ("gTLD") ".mobi" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. Accordingly, the Disputed Domain Name is identical to a mark in which the Complainant has rights. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

Accordingly, the Disputed Domain Name is identical to a mark in which the Complainant has rights and, consequently, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant has presented a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and has not been commonly known by the Disputed Domain Name. The fact that the Respondent obtained the Disputed Domain Name decades after the Complainant had begun using its CINCINNATI BELL mark indicates the Respondent sought to piggyback on the mark for illegitimate reasons. Such use indicates to the Panel that the Respondent does not have any rights or legitimate interests in the Disputed Domain Name.

After a complainant has made a *prima facie* case, the burden of production shifts to a respondent to present evidence demonstrating rights or legitimate interests in the domain name. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

Here, the Respondent has provided no evidence of any rights or legitimate interests in the Disputed Domain Name.

Furthermore, the Panel finds that because the Disputed Domain Name is identical to the Complainant's mark, any use of such domain name by the Respondent carries a high risk of implied affiliation with the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

In the absence of any evidence rebutting the Complainant's *prima facie* case indicating the Respondent's lack of rights or legitimate interests in respect of the Disputed Domain Name, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Disputed Domain Name was registered many years after the Complainant first registered and used its CINCINNATI BELL mark. Considering the evidence on the record provided by the Complainant with respect to the extent of its current and former use of its CINCINNATI BELL mark combined with the absence of any evidence provided by the Respondent to the contrary, it is sufficient to satisfy the Panel that, at the time the Disputed Domain Name was registered, the Respondent undoubtedly knew of the Complainant's CINCINNATI BELL mark, and knew that it had no rights or legitimate interests in the Disputed Domain Name. Prior UDRP panels have held that the mere registration of a domain name that is identical or confusingly similar (to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

There is no benign reason for the Respondent to have registered the Disputed Domain Name.

The Panel finds that the only plausible basis for registering and passively holding the Disputed Domain Name is for illegitimate and bad faith purposes. In view of section 3.3 of the [WIPO Overview 3.0](#), given the above considerations and the Respondent's details having been masked (either with GDPR or privacy service), the totality of the circumstances support a finding of bad faith, regardless of the current inactive state of the Disputed Domain Name.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) 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 <cincinnati.bell.mobi> be transferred to the Complainant.

/Colin T. O'Brien/

Colin T. O'Brien

Sole Panelist

Date: September 10, 2023