

ADMINISTRATIVE PANEL DECISION

Barrett Steel Limited v. Name Redacted

Case No. D2023-2897

1. The Parties

The Complainant is Barrett Steel Limited, United Kingdom, represented by DWF LLP, United Kingdom.

The Respondent is Name Redacted.¹

2. The Domain Name and Registrar

The disputed domain name <ahsateelstock.com> 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 July 6, 2023. On July 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 7, 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 (Wild West Domains, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 10, 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 July 13, 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”).

¹ The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the 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 disputed domain name, which includes the name of the 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Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case.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](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on July 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 2, 2023. The Respondent did not submit any substantive response, but a third party sent an informal communication on July 13, 2023. Accordingly, the Center suspended the proceedings on July 28, 2023. Upon the confirmation of the Complainant, the Center re-instituted the proceedings on August 30, 2023. Accordingly, the Center notified the Commencement of Panel Appointment Process on September 5, 2023. On September 11, 2023, the third party submitted a further informal communication.

The Center appointed Christopher J. Pibus as the sole panelist in this matter on September 11, 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 carries on business as an independent steel supplier. Incorporated in England and Wales in 1992, it now operates in multiple divisions across 27 locations. One of its trading divisions has used the business name "AH Allen Steelstock" and the unregistered trademark AHA STEELSTOCK since 2010. The Complainant's revenues in connection with the AHA STEELSTOCK mark from 2019-2022 amounted to more than GBP 46,000,000.

The Complainant also owns a related domain name, <ahasteelstock.com>, which has been registered and used since 2010 by its sales team and trading division to communicate with its customers and suppliers via email. For example, the Complainant's employees use email addresses with the format "[name]@ahasteelstock.com" to communicate with their customers.

The disputed domain name was registered on May 30, 2023, and it has been used to send out fraudulent emails.

5. Parties' Contentions

A. Complainant

The Complainant submits that it is the owner of established rights in the unregistered trademark AHA STEELSTOCK based on use and reputation in the United Kingdom where it carries on business. The disputed domain name is confusingly similar to the Complainant's trademark, as it is virtually identical except for the switching of the letters "a" and "s" which does not diminish the confusing similarity.

With respect to the absence of rights or legitimate interests, the Complainant submits that the Respondent has engaged in a fraudulent scheme to deceive users through the impersonation of the Complainant's employees, using email addresses connected to the disputed domain name. The Complainant asserts that the Respondent has never been authorized to engage in this conduct or to adopt a confusingly similar domain name. It further submits that the Respondent is not making a *bona fide* offering of services but rather is using the disputed domain name to divert unknowing users to submit payments to the Respondent rather than to the Complainant to whom the payments are owed. The Complainant submits that it has put forward viable evidence of the absence of rights or legitimate interests.

With respect to bad faith, the Complainant relies on evidence of the Respondent's fraudulent scheme to establish targeted and abusive registration and use of the disputed domain name. Based on this misconduct, and on the absence of any explanation or response from the Respondent, the Complainant submits that there is sufficient evidence to support a finding of bad faith.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions. Informal emails were received from a third party confirming that the named Respondent had been victimized by an impersonation scheme whereby an unidentified party had registered the disputed domain name using the Respondent's name.

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, the Complainant must establish each of the following elements:

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

A. Identical or Confusingly Similar

The Complainant clearly holds relevant ownership rights in the unregistered trademark AHA STEELSTOCK, as demonstrated by the proof of use and reputation since 2010. The Complainant has brought forward tangible evidence of use and associated reputation of the trademark accruing over the past 13 years, in connection with its sales in the United Kingdom and its communications with customers. Also, the fact that the Respondent is shown to have been targeting the Complainant's mark (based on the use of the disputed domain name in order to send out fraudulent emails) further supports the Complainant's assertion that its AHA STEELSTOCK mark has achieved significance as a source identifier.

The test for confusing similarity is described as a "reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name" in WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's unregistered trademark. The disputed domain name includes the entirety of the AHA STEELSTOCK mark with the switching of the placement of the letters "a" and "s". This variation does not prevent a finding of confusing similarity under the first element; this is an obvious example of typosquatting. The Complainant's AHA STEELSTOCK trademark is clearly recognizable within the disputed domain name ([WIPO Overview 3.0](#), section 1.9).

The Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Although the Policy places on the Complainant the burden of proof to establish the absence of rights or legitimate interests, UDRP panels now recognize that it is often sufficient for a complainant to make out a *prima facie* case, which then shifts the burden to the Respondent to bring forward evidence to demonstrate the relevant rights or legitimate interests. Where the Respondent fails to produce such evidence, the Complainant will be deemed to have satisfied the second element ([WIPO Overview 3.0](#), section 2.1).

In this proceeding, the Complainant has provided uncontradicted evidence of the Respondent's misconduct in impersonating the Complainant's employees and otherwise misappropriating the Complainant's trademark in furtherance of what appears to be a fraudulent scheme. The Respondent's use of a typosquatted version of the AHA STEELSTOCK mark has been made without authorization or license, and the evidence shows there is no relationship or affiliation between the parties. The totality of the evidence establishes a *prima facie* case of the absence of rights or legitimate interests on the part of the Respondent. Illegal conduct of this nature is highly probative in connection with this issue. "Panels have categorically held that the use of a domain name for illegal activity (e.g., [...] 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.)

In the absence of any substantive response from the Respondent, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that the disputed domain name constitutes an abusive registration in order to take advantage of the significance of the Complainant's AHA STEELSTOCK trademark, which had been in use long prior to the Respondent's registration of the disputed domain name. The Respondent clearly set out to target the Complainant and to deceive users into believing that its email correspondence, associated with the confusingly similar disputed domain name, originated from the Complainant. The Respondent's communications to customers were cunningly adapted to have the appearance of a legitimate request for payment of accounts under the AHA STEELSTOCK brand, replicating features of the Complainant's emails in multiple places. In particular, the Panel notes that the Respondent not only employed typosquatting to copy the distinctive wordmark AHA STEELSTOCK, but also copied the Complainant's signature information in exactly the same way it is presented in the Complainant's emails. This sort of deliberate, perfidious copying is compelling evidence that the Respondent was fully aware of the Complainant's rights at all material times and further that the Respondent has adopted and used the disputed domain name to target the Complainant's business. See the recent decision in *Barrett Steel Limited v. allen allen*, WIPO Case No. [D2023-2899](#) for an analysis of bad faith in a similar fact situation.

The Panel also identifies several other aspects of the Respondent's conduct as probative evidence of bad faith:

- (1) the fact that AHA STEELSTOCK is a distinctive term, which is connected exclusively with the Complainant;
- (2) the fact that there is no reason for the Respondent to use a variation of AHA STEELSTOCK as part of its domain name except to trade on the Complainant's reputation and thereby to confuse and defraud Internet users;
- (3) the nature of the disputed domain name itself, in that it is a clear example of typosquatting, where the Respondent has copied the Complainant's trademark AHA STEELSTOCK, and merely switched the placement of the letters "a" and "h"; and
- (4) the use of false contact information and the Respondent's failure to submit a response or to provide any evidence of actual or contemplated good faith use.

[WIPO Overview 3.0](#), section 3.2.1, lists a number of circumstances which panels may consider in conducting a bad faith analysis, including the nature of the domain name, the content of any uses associated with the disputed domain name, and the clear absence of rights or legitimate interests on the part of the Respondent. All these circumstances weigh against the Respondent in this matter, as seen in the evidence described above.

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, <ahsateelstock.com>, be transferred to the Complainant.

/Christopher J. Pibus/

Christopher J. Pibus

Sole Panelist

Date: September 21, 2023