

ADMINISTRATIVE PANEL DECISION

Edwards Limited v. Ant Thy
Case No. D2023-3164

1. The Parties

The Complainant is Edwards Limited, United Kingdom (“UK”), represented by Legal Studio Solicitors, UK.

The Respondent is Ant Thy, UK.

2. The Domain Name and Registrar

The disputed domain name <edwardsvacum.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 July 24, 2023. On July 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 25, 2023, the Registrar transmitted by email to the Center its verification response confirming that the 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 the Respondent of the Complaint, and the proceedings commenced on August 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 21, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 23, 2023.

The Center appointed Dawn Osborne as the sole panelist in this matter on August 28, 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 is the owner of the mark EDWARDS, registered, *inter alia*, as trade mark registration UK00002453957 in the UK for vacuum machines since May 9, 2008.

The Domain Name registered on May 8, 2023 does not point to an active website, but it has been used for a fraudulent email scheme using the Complainant's mark spelt correctly, the Complainant's logo as a masthead, the Complainant's corporate name, the name of one of the Complainant's employees, and the Complainant's real word contact details/address. The Respondent appears to have given false details to the Whois database.

5. Parties' Contentions

A. Complainant

The Complainant's contentions can be summarised as follows:

The Complainant is the owner of the mark EDWARDS, registered, *inter alia*, in the UK for vacuum machines since 2008. It also owns <edwardsvacuum.com>.

The Domain Name registered in 2023 is confusingly similar to the Complainant's mark adding only a misspelling of the word vacuum, "vacum" and the generic Top-Level Domain ("gTLD") ".com" neither of which prevents a finding of confusing similarity.

The Respondent does not have rights or legitimate interests in the Domain Name, is not commonly known by the Domain Name, and is not authorised by the Complainant.

The Domain Name does not resolve to any web site, but has been used for a fraudulent email scheme using the Complainant's EDWARDS mark spelt correctly, the Complainant's logo as a masthead, the Complainant's corporate name, the name of one of the Complainant's employees, and the Complainant's real world contact details/address. This cannot be a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. It is registration and use in bad faith.

The Respondent has given false contact details on the Whois database, again evidence of bad faith and a lack of legitimate rights and interests.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Domain Name consists of the Complainant's EDWARDS mark (registered in the UK for vacuum machines since 2008), adding only a misspelling of the term vacuum, "vacum", and the gTLD ".com".

Previous UDRP panels have found confusing similarity when a respondent merely adds a term to a Complainant's mark and a gTLD. The Panel agrees that the addition of a misspelling of the term vacuum, namely "vacum" and the addition of the gTLD ".com" does not prevent a finding of confusing similarity between the Domain Name and the Complainant's registered trade mark for the purposes of the Policy.

Accordingly, the Panel holds that the Domain Name is confusingly similar for the purpose of the Policy to a mark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has not authorised the use of its mark. There is no evidence or reason to suggest the Respondent is, in fact, commonly known by the Domain Name.

The Domain Name has been used in a fraudulent phishing attempt via email using the Complainant's mark spelt correctly in its logo form as a masthead, the name of the Complainant and one of its employees, and its real world contact details and address to try to divert funds meant for the Complainant. This is fraudulent and confusing. As such, it cannot amount to the *bona fide* offering of goods and services or a legitimate noncommercial or fair use.

The Domain Name appears to be a typosquatting registration differing from the Complainant's domain name <edwardsvacuum.com> by only one letter. Typosquatting is also an indication of a lack of rights or legitimate interests.

The Respondent has not answered this Complaint or rebutted the *prima facie* case evidenced by the Complainant as presented herein.

As such, the Panel finds that the Respondent does not have rights or legitimate interests in the Domain Name and that the Complainant has satisfied the second limb of the Policy.

C. Registered and Used in Bad Faith

The use of the Complainant's mark spelt correctly, the Complainant's logo, the Complainant's corporate name, the name of one of its employees, and its real world contact details in the Respondent's fraudulent phishing email scheme in this case shows that the Respondent is aware of the Complainant, its rights, business, and goods.

The Respondent's conduct, impersonating a complainant by use of the Complainant's mark in the Domain Name in a fraudulent phishing attempt is disruptive and evinces bad faith registration and use in bad faith.

This appears to be a case of typosquatting, using a url which is very similar to the Complainant to divert traffic. Typosquatting itself is evidence of relevant bad faith registration and use and also indicates the Respondent had knowledge of the Complainant and its rights.

The Respondent appears to have given false details to the Whois database. Providing false information at the time of a domain name's registration may be further evidence of the Respondent's bad faith registration and use under Policy, paragraph 4(a)(iii). Here in the context of phishing, providing false address details indicates clearly the use in bad faith.

As such, the Panel holds that the Complainant has made out its case that the Domain Name was registered and used in bad faith under Policy, paragraph 4(b)(iii).

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 <edwardsvacum.com> be transferred to the Complainant.

/Dawn Osborne/

Dawn Osborne

Sole Panelist

Date: August 29, 2023