

ADMINISTRATIVE PANEL DECISION

Swire Shipping Pte. Ltd. v. CAPT V SINGH singh
Case No. D2023-3794

1. The Parties

The Complainant is Swire Shipping Pte. Ltd., United States of America (“United States”), represented by Schwabe, Williamson & Wyatt, United States.

The Respondent is CAPT V SINGH singh, India.

2. The Domain Name and Registrar

The disputed domain name <westwoodcanada.com> (the “Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 12, 2023. On September 12, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 13, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (“Doe” Respondent) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 14, 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 the same day.

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”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on September 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 9, 2023. The Respondent sent email communications to the Center on September 18, 2023. The Center informed the Parties of its commencement of panel appointment process on October 13, 2023.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on October 19, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant owns the subsidiary Westwood Shipping Lines (“Westwood”), which is licensed to use the Complainant’s WESTWOOD SHIPPING LINES trademark. Westwood is an ocean-going common carrier, operating a liner service of numerous ships between Canada, the United States, and Asia. Westwood has been operating under the name WESTWOOD SHIPPING LINES since 1981. Westwood is known around the world for its extensive intermodal, container, break bulk, forest product, and project cargo business.

The Complainant owns numerous trademark registrations around the world for the WESTWOOD SHIPPING LINES trademark, such as United States trademark number 6129113 (registered on August 18, 2020).

The Domain Name was registered on February 21, 2022. The Domain Name has resolved to a webpage that impersonates the Complainant and its licensee, Westwood.

5. Parties’ Contentions

A. Complainant

The Complainant provides evidence of trademark registrations before the Domain Name was registered. The Domain Name is confusingly similar to the Complainant’s trademark as the Domain Name uses the dominant portion of the trademark, and the addition of a geographically descriptive term does not stop the Domain Name from being confusingly similar.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Respondent is not authorized, licensed, or permitted to register or use a domain name incorporating the Complainant’s trademark. The Respondent’s use of the Domain Name is not *bona fide* commercial or fair or legitimate noncommercial use. The Respondent is using the Domain Name to impersonate Westwood as part of a scheme to cause confusion, mistake, and deception. On the Respondent’s webpage, the Respondent falsely purports to offer maritime staffing and recruiting services. The listed physical address on the Respondent’s website is a slight misspelling of Westwood’s former address in Canada.

The Respondent attempts to disrupt Westwood’s business by passing itself off as Westwood. The Complainant and its licensee, Westwood, are well-known in the maritime industry, especially in Canada where Westwood has a physical presence. The Respondent’s use of the WESTWOOD element in the Domain Name, and prominent use of the WESTWOOD SHIPPING LINES trademark on the Respondent’s webpage, must be read as opportunistic bad faith.

B. Respondent

The Respondent did not reply to the Complainant’s contentions but sent some informal emails to the Center on September 18, and October 19, 2023. In both emails, the Respondent requested further explanation as to the nature of the proceedings. Despite a copy of the Complaint and the Center’s notification document being provided to the Respondent on September 19, 2023, no further emails were received from the Respondent.

6. Discussion and Findings

A. Identical or Confusingly Similar

The test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Domain Name. 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 normally be considered confusingly similar to that mark for purposes of UDRP standing. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has established that it has rights in the trademark WESTWOOD SHIPPING LINES. The WESTWOOD element is the dominant feature of the trademark and is recognizable within the Domain Name. The Domain Name adds the geographical term "Canada" to the WESTWOOD element. The addition does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8. For the purpose of assessing the confusing similarity under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD") ".com"; see [WIPO Overview 3.0](#), section 1.11.1.

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. See [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 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 Domain Name. Based on the record, the Respondent is not affiliated or related to the Complainant. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent's use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering of goods or services. Rather, the Respondent's use of the Domain Name is evidence of bad faith, see below, and as such cannot confer rights or legitimate interests upon the Respondent per section 2.13 of the [WIPO Overview 3.0](#).

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.

The Domain Name was registered long after the Complainant's trademarks, and the Domain Name has been used in bad faith. The Respondent has tried to impersonate the Complainant's licensee to attract Internet users by creating a likelihood of confusion with the Complainant's trademark, which is *per se* evidence of bad faith.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) of the Policy.

The third element of the Policy has been established.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders the Domain Name, <westwoodcanada.com>, transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: October 24, 2023