

ADMINISTRATIVE PANEL DECISION

Coller Capital Limited v. tian xing
Case No. D2023-3954

1. The Parties

The Complainant is Coller Capital Limited, United Kingdom, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is tian xing, United States of America (“United States”).

2. The Domain Names and Registrar

The disputed domain names <collercapitalpro.com> and <collercapitaltop.com> are registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 21, 2023. On September 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 25, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 25, 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 September 27, 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 September 29, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 19, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 20, 2023.

The Center appointed Gustavo Patricio Giay as the sole panelist in this matter on October 31, 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 -operating since 1990- is one of the world's leading investors in private equity's secondary market. The Complainant, with headquarters in London, United Kingdom, and offices in New York, United States, and Hong Kong, China, has been providing liquidity solutions to private equity investors worldwide for 30 years.

In fact, the Complainant asserts to have achieved milestone transactions of the secondary market including, the purchase of the Shell US Pension Trust portfolio, the purchase of the NatWest Equity Partners portfolio, the acquisition of Crédit Agricole Private Equity, among others.

The Complainant, through its subsidiary Collier Holdings Limited, has rights in the trademark registrations for COLLER CAPITAL in many jurisdictions including United States Patent and Trademark Office (USPTO) Reg. No. 2809826 in cl. 36, registered on February 3, 2004; European Union Intellectual Property Office (EUIPO) Reg. No. 002718146 in cl. 36, registered on December 16, 2003; Swiss Federal Institute of Intellectual Property ("IPI" per its acronym in French) Reg. No. 502356 in cl. 36, registered on August 22, 2002; and United Kingdom Intellectual Property Office (UKIPO) Reg. No. UK00902718146 in cl. 36, registered on December 16, 2003 (as per Annex 1 to the Complaint). The Panel has confirmed that the referred registrations have been timely renewed.

The Complainant claims to own an important domain names portfolio, including, among others, its primary domain name <collercapital.com> registered in 1998, that received over 500 million individual visits in 2022.

The Complainant has provided evidence showing that the Complainant tried to resolve this dispute amicably by sending three cease-and-desist letters over the course of 2023 but were ignored by the Respondent (as per Annex 8 to the Complaint). It is worth highlighting, however, that the Complainant did not provide evidence of the delivery of the cease-and-desist letters submitted in the Complaint but, as the Respondent did not file any objection to such evidence, this Panel will consider them as valid proof.

Lastly, the disputed domain names were registered on May 14, 2023, and resolve to inactive sites that are not being used.

5. Parties' Contentions

A. Complainant

The Complainant claims that the disputed domain names are confusingly similar to the trademark COLLER CAPITAL in which the Complainant has prior rights.

The Complainant contends that the Respondent has no rights or legitimate interest in respect of the disputed domain names, nor is he related in any way to the Complainant. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark COLLER CAPITAL or apply for registration of the disputed domain names.

More specifically, the Complainant alleged that the Respondent is passively holding the disputed domain names and that the Respondent knew or should have known of the existence of the Complainant's trademarks before registering the disputed domain names. Therefore, the Complainant contends that the disputed domain names were registered and are being used in bad faith.

Finally, the Complainant has requested the Panel to issue a decision ordering the transfer of the disputed domain names to the Complainant.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain names, the Complainant must prove each of the following, namely that:

- (i) the disputed domain names are identical or confusingly similar with a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interest in respect of the disputed domain names; and
- (iii) the disputed domain names were registered and are being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has trademark rights in the COLLER CAPITAL mark by virtue of various trademark registrations.

As set forth in section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name to determine whether the disputed domain name is confusingly similar with the trademark. The test involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The Panel considers that the disputed domain names are confusingly similar to the Complainant's COLLER CAPITAL trademark since they fully include the trademark COLLER CAPITAL and, even when combined with the words "pro" or "top", such terms do not prevent a finding of confusing similarity. Section 1.8 of the [WIPO Overview 3.0](#).

Moreover, the ".com" generic Top-Level Domain ("gTLD") is viewed as a standard registration requirement and is generally disregarded under the first element of the confusing similarity test, as set forth in section 1.11.1 of the [WIPO Overview 3.0](#).

Based on the above, the Panel finds that the disputed domain names are confusingly similar to the trademark COLLER CAPITAL in which the Complainant has rights, and considers that the requirements of paragraph 4(a)(i) of the Policy are fulfilled.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a domain name by demonstrating any of the following non-exclusive defenses:

- (i) before any notice to it of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain, to misleadingly divert consumers.

Although the Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name, it is well established that a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name (section 2.1 of the [WIPO Overview 3.0](#)). Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name, and if the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element (see *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

The Complainant has claimed not to have authorized, licensed, or permitted the Respondent to register or use the disputed domain names or to use the COLLER CAPITAL trademark nor there is any other evidence in the file suggesting that the Respondent has or could have rights or legitimate interests in the disputed domain names. Also, the Complainant has prior rights in the COLLER CAPITAL trademark which clearly precede the Respondent's registration of the disputed domain names.

Likewise, it does not seem that the Respondent made nor is making a legitimate noncommercial or fair use of the disputed domain names. On the contrary, the Complainant has demonstrated that the disputed domain names resolve to blank pages and lack content. As further discussed in section 6.C below, the latter evidence that the Respondent has not demonstrated any attempt to make a legitimate use of the disputed domain names or constitute a *bona fide* offering of goods and services.

Given these circumstances, the Panel finds that the Complainant has made out a *prima facie* case. Having made out such *prima facie* case, the burden of production has then shifted to the Respondent to refute the Complainant's assertion that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not submitted any reply to the Complaint, and the Panel is unable to consider any reasonable basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain names (see *Telstra Corporation Ltd. v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

The Panel therefore finds that the Respondent has no rights or legitimate interest in respect of the disputed domain names and that the requirements of paragraph 4(a)(ii) of the Policy have been fulfilled.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy contains a non-exhaustive list of factors evidencing registration and use in bad faith.

In this case, the Complainant has submitted evidence to support that the trademark COLLER CAPITAL is widely known and was registered and used decades before the Respondent registered the disputed domain names. It is clear that the Respondent registered the disputed domain names, adding the terms "top" and "pro", to generate confusion among the Internet users and benefit from the Complainant's reputation.

It is reasonable to infer that the Respondent, who lives in the United States where the Complainant operates and has offices, has registered the disputed domain names with full knowledge of the Complainant's trademark and with the intention to cause confusion among consumers who might think that the disputed domain names pertain or are associated to the Complainant. Therefore, the Panel is satisfied that the Respondent knew or should have known of the Complainant and the Complainant's trademark COLLER CAPITAL when it registered the disputed domain names on May 14, 2023. Consequently, and in accordance with section 3.1.4 of the [WIPO Overview 3.0](#), the Panel considers that the inclusion of the Complainant's COLLER CAPITAL trademark in the disputed domain names, by the Respondent who is unaffiliated with the Complainant, creates a presumption of bad faith.

Furthermore, as per section 3.3 of the [WIPO Overview 3.0](#), the fact that the disputed domain names do not resolve to an active website does not prevent a finding of bad faith under the doctrine of passive holding. (See also *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

In connection with the Respondent's passive holding of the disputed domain names, the Panel considers the following factors: (a) that the Complainant's trademark COLLER CAPITAL is well known; (b) the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good faith use; (c) the Respondent provided incomplete contact details when registering the disputed domain names; and (d) any good faith use of the disputed domain names, incorporating the Complainant's trademark in its entirety, is implausible.

Lastly, the clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the disputed domain names is also a significant factor to consider that the disputed domain names were registered in bad faith (as stated in section 3.2.1 of the [WIPO Overview 3.0](#)).

Based on the above, the Panel finds that the Respondent has registered and used the disputed domain names in bad faith.

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 names, <collercapitalpro.com> and <collercapitaltop.com>, be transferred to the Complainant.

/Gustavo Patricio Giay/

Gustavo Patricio Giay

Sole Panelist

Date: November 14, 2023