

ADMINISTRATIVE PANEL DECISION

Montpelier Group, Ltd., Hamilton Reserve Bank, Ltd. v. N/A N/A, Host Master,
1337 Services LLC
Case No. D2023-4517

1. The Parties

The Complainants are Montpelier Group, Ltd. (“First Complainant”) and Hamilton Reserve Bank, Ltd. (“Second Complainant”), Saint Kitts and Nevis, represented by Hinckley, Allen & Snyder, LLP, United States of America (“United States”).

The Respondents are N/A N/A, United States (“First Respondent”), and Host Master, 1337 Services LLC, Saint Kitts and Nevis (“Second Respondent”).

2. The Domain Names and Registrars

The disputed domain names <hamiltonexposed.com> and <hrbankexposed.com> are registered with Tucows Inc. (the “First Registrar”). The disputed domain name <hamiltonreservebankexposed.com> is registered with Web Commerce Communications Limited dba WebNic.cc (the “Second Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 30, 2023 in respect of the disputed domain names and two other domain names, <hamrebank.com> and <hamiltonrbank.net>. On November 1, 2023, the Center transmitted by email to the Registrars requests for registrar verification in connection with the disputed domain names. On November 1 and 2, 2023, the Registrars transmitted by email to the Center their verification responses disclosing registrant and contact information for the disputed domain names which differed from the named Respondents (Withheld for Privacy ehf, Web Commerce Communications Limited d/b/a WebNic.cc, and Tucows Domains, Inc.) and contact information in the Complaint.

The Center sent an email communication to the Complainants on November 3, 2023, with the registrant and contact information of the underlying registrants revealed by the Registrars, inviting the Complainants to either file separate complaints for the disputed domain names associated with the different underlying registrants, or, alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainants filed an amended Complaint on November 8, 2023, and withdrew the Complaint in respect of the domain names <hamrebank.com> and <hamiltonrbank.net>. The Center acknowledged the receipt of the amended Complaint on November 10, 2023, and confirmed that it will not proceed in this case as regards the domain names <hamrebank.com> and <hamiltonrbank.net>.

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 Respondents of the Complaint, and the proceedings commenced on November 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 4, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on December 5, 2023.

The Center appointed Assen Alexiev as the sole panelist in this matter on December 7, 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.

On December 11, 2023, the Complainants informed the Panel of the recently issued UDRP decision between the same Parties in *Hamilton Reserve Bank, Ltd and Montpelier Group, Ltd. v. Host Master, 1337 Services LLC*, WIPO Case No. [D2023-3923](#).

4. Factual Background

The First Complainant is the owner of the United States trademark registration for the sign “HAMILTON RESERVE BANK” (the “HAMILTON RESERVE BANK trademark”) with registration No. 7,144,932, applied for on July 18, 2022, and registered on August 22, 2023, for services in International Class 36, and claimed first use in commerce on October 1, 2018. No claim is made to the exclusive right to use “RESERVE BANK” apart from the trademark as shown on the certificate of registration.

The Second Complainant is a bank offering personal and business banking services and investment solutions. The Complainants claim that it has started using the HAMILTON RESERVE BANK trademark in commerce in 2018. The official website of the Second Complainant is located at the domain name <hrbank.com>.

On August 11, 2022, the First Complainant entered into an exclusive trademark license agreement with the Second Complainant with respect to the HAMILTON RESERVE BANK trademark (the “License Agreement”).

The details about the registration and use of the disputed domain names are as follows:

Disputed domain name	Registrant	Registration date	Status
<hamiltonreservebankexposed.com>	First Respondent	August 1, 2023	Currently inactive. Previously resolved to a criticism website directed at the Second Complainant
<hrbankexposed.com>	Second Respondent	August 1, 2023	Currently inactive. Previously resolved to a criticism website directed at the Second Complainant
<hamiltonexposed.com>	Second Respondent	August 4, 2023	Currently inactive. Previously resolved to a criticism website directed at the Second Complainant

The identity of the First Respondent is unclear.

The Second Respondent has been involved as respondent in more than 60 prior UDRP proceedings before the Center that resulted in the transfer of the respective domain names.

5. Parties' Contentions

A. Complainants

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

The Complainants state that the disputed domain names are confusingly similar to the HAMILTON RESERVE BANK trademark, because they incorporate the trademark either in its entirety, or its modified variation "hrbank" that matches the Second Complainant's own domain name <hrbank.com>, or its first and most distinctive element "Hamilton", with the addition of the word "exposed". The Complainants add that the disputed domain names have resolved to websites that feature the HAMILTON RESERVE BANK trademark and target the Second Complainant.

According to the Complainants, the Respondents have no rights or legitimate interests in respect of the disputed domain names, because they have not used them in connection with a bona fide offering of goods or services, but are attacking the Second Complainant in an effort to disrupt its business with defamatory and malicious content intended to impair the goodwill of the Second Complainant, tarnish its reputation and the value of the HAMILTON RESERVE BANK trademark, intimidate its commercial relationships and personnel, and phish for bank customer contacts, thereby exposing legitimate bank customers to malicious exploitation of their account information. The Complainants add that the Respondents have not been commonly known by the disputed domain names and have not been authorized to use the HAMILTON RESERVE BANK trademark for any purpose.

The Complainants contend that the disputed domain names were registered and are being used in bad faith. According to them, the disputed domain names are used to disrupt the Second Complainant's business and intimidate its banking and customer relationships through false claims that it is a "ponzi scheme" and a "scam." The Complainants add that the Respondents' information was hidden behind privacy services to conceal their identity, and point out that the First Respondent's putative contact information is deliberately false, because it is listed as "N/A," while the provided address is in fact the address of an attorney for Complainants, and the telephone number provided has an area code for a different state in the United States.

The Complainants request the transfer of the disputed domain names to the First Complainant Montpelier Group, Ltd.

B. Respondents

The Respondents did not reply to the Complainants' contentions.

6. Discussion and Findings

6.1. Procedural issues

a) Consolidation of Complainants

The Complaint was filed by two Complainants.

Paragraph 10(e) of the UDRP Rules grants a panel the power to consolidate multiple domain name disputes. In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.1.

The Complainants submit in their Complaint that the disputed domain names are confusingly similar to the HAMILTON RESERVE BANK trademark, which is registered by the First Complainant and exclusively licensed to the Second Complainant, and that the associated websites target the same trademark and the business of the Second Complainant. This is sufficient for the Panel to conclude that the Complainants have specific common grievances against the registrants of the disputed domain names. The Respondents have not objected to the filing of the Complaint and to the fact that it has been filed by the two Complainants jointly, and have not brought to the Panel's attention any reasons why the admission of the two Complainants would not be equitable or procedurally efficient.

Therefore, the Panel accepts the Complaint filed by the two Complainants.

b) Consolidation of Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainants request the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules. The Complainants state that the disputed domain names are registered to the same proxy-protected entity or are under common control by a network that registers domain names using proxy services in order to avoid detection. The Complainants maintain that the common control is evident from the facts that the disputed domain names follow the same naming pattern, combining some variation of the First Complainant's HAMILTON RESERVE BANK trademark with the word "exposed" and that all of them have resolved to identical or substantially similar websites targeting the Second Complainant's business.

In addressing the Complainant's request, the Panel will consider whether the disputed domain names or corresponding websites are subject to common control, and whether the consolidation would be fair and equitable to all Parties. [WIPO Overview 3.0](#), section 4.11.2.

As regards common control, the Panel notes that all of the disputed domain names indeed follow the same naming pattern, combining some variation of the First Complainant's HAMILTON RESERVE BANK trademark with the word "exposed". The evidence in the case also shows that all of the disputed domain names have previously resolved to identical or substantially similar websites featuring the same trademark and containing sharp criticisms and accusations against the Second Complainant and its activities. The registrants of the disputed domain names have not commented on the Complainants' request for consolidation and have not disputed the evidence in the case or the fact that they are under common control. In view of the above, the Panel concludes that it is more likely that the Respondents are indeed under common control.

As regards fairness and equity, the Panel is not aware of any reason why the consolidation of the Respondents in this proceeding would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (i.e., the First Respondent and the Second Respondent) in a single proceeding.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between

the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainants have shown rights in respect of the HAMILTON RESERVE BANK trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The First Complainant is the owner of this trademark, while the Second Complainant is the holder of an exclusive license to use it. An exclusive trademark licensee is considered to have rights in a trademark under the UDRP for purposes of standing to file a complaint. [WIPO Overview 3.0](#), section 1.4.1. The terms "reserve bank" included in the HAMILTON RESERVE BANK trademark are disclaimed. However, the word element "hamilton" in the trademark is not disclaimed, and as discussed in section 1.2.3 of the [WIPO Overview 3.0](#), trademark registrations with disclaimed terms typically would not affect panel assessment of standing or identity/confusing similarity under the UDRP but may be relevant to panel assessment of the second and third elements.

The Panel further notes that the HAMILTON RESERVE BANK trademark was registered after the registration of the disputed domain names. This is however not relevant for the analysis under the first element. [WIPO Overview 3.0](#), section 1.1.3.

The Panel finds that the HAMILTON RESERVE BANK trademark is recognizable within each of the disputed domain names. The disputed domain name <hamiltonreservebankexposed.com> contains all word elements of the trademark, while the disputed domain name <hamiltonexposed.com> contains the distinctive "hamilton" element of the same trademark, which moreover is not disclaimed in its registration. This is sufficient to make the HAMILTON RESERVE BANK trademark recognizable in these two disputed domain names. As regards the disputed domain name <hrbankexposed.com>, it contains the sequence "hrbank", which appears as an abbreviation of the HAMILTON RESERVE BANK trademark, and which makes it confusingly similar to the Second Complainant's domain name <hrbank.com>. As also discussed in section 1.7 of the [WIPO Overview 3.0](#), in specific limited instances, while not a replacement as such for the typical side-by-side comparison, where a panel would benefit from affirmation as to confusing similarity with the complainant's mark, the broader case context such as website content trading off the complainant's reputation, or a pattern of multiple respondent domain names targeting the complainant's mark within the same proceeding, may support a finding of source-identifying capacity, leading to confusing similarity. Indeed, given the likelihood of common control over all three disputed domain names, the disputed domain name <hrbankexposed.com> appears to have been registered as part of a pattern of multiple domain names and their use for almost identical websites targeting the Second Complainant.

Although the addition of other terms (here, "exposed") may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain names and the HAMILTON RESERVE BANK trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Taking the above into account, the Panel finds that the disputed domain names are confusingly similar to the HAMILTON RESERVE BANK trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Therefore, the first element of the Policy has been established.

B. Rights or Legitimate Interests

The Complainants' position is that the Respondents have no rights or legitimate interests in respect of the disputed domain names, because they are not commonly known by them and have not been authorized to use the HAMILTON RESERVE BANK trademark for any purpose, but at the same time they attempt to disrupt the business of the Second Complainant and to tarnish its reputation with defamatory and malicious content, and also attempt to phish for bank customer contacts.

The Respondents have not submitted a Response and have not alleged to have used the disputed domain names for fair speech purposes. Nevertheless, the evidence shows that the disputed domain names have resolved to almost identical websites containing very serious accusations against the Second Respondent and its management team, including allegations about “international money laundering”, “racketeering operations”, “fraud”, “Ponzi scheme” and “scam”, while one of its directors is called a “crime boss”. The Complainants strongly deny these accusations, claiming them to be false, defamatory, and malicious. In any case, it is not the Panel’s task to determine whether the accusations are true or false.

Nevertheless, the content of the associated websites makes it necessary to examine whether the use of the disputed domain names should be considered as giving rise to legitimate interests of the Respondents in them, since UDRP jurisprudence recognizes that the use of a domain name for noncommercial free speech may in principle support a respondent’s claim to a legitimate interest under the Policy.

To support fair use under UDRP paragraph 4(c)(iii), the respondent’s criticism must be genuine and noncommercial. In a number of UDRP decisions where a respondent argues that its domain name is being used for free speech purposes, the panel has found this to be primarily a pretext for cybersquatting or in some more limited cases, commercial activity. Where the domain name is not identical to the complainant’s trademark, but it comprises the mark plus a derogatory term (e.g., <trademarksucks.tld>), panels tend to find that the respondent has a legitimate interest in using the trademark as part of the domain name of a criticism site, if such use is prima facie noncommercial, genuinely fair, and not misleading or false.

[WIPO Overview 3.0](#), section 2.6.

Here, each of the disputed domain names contains the dictionary word “exposed”, so it has to be considered whether the inclusion of this word makes them clearly signaling an intention of their registrants to use them for criticism websites similarly to domain names containing a derogatory term. The Cambridge Dictionary¹ defines the word “exposed” as “having no protection from bad weather”, “able to be easily harmed, influenced, or attacked”, or “uncovered so that it can be seen”. One of the gTLDs is “.exposed”, which is part of ICANN’s New gTLD Program. In the application process for this gTLD, the applicant Donuts Inc. stated that “*.EXPOSED will be utilized by registrants seeking new avenues for expression on the Internet. There is a deep history of progressivity and societal advancement resulting from the online free expressions of criticism.*”² The Panel in *American Family Mutual Insurance Company v. Joe Caulfield*, WIPO Case No. [D2018-1072](#), expressed the view that “[i]t is far more likely that the word “exposed” in the [.exposed] gTLD will be viewed by most Internet users exactly as the parent applicant, Donuts Inc., envisioned, for “online free expressions of criticism”.

This Panel agrees that in the Internet context the word “exposed” tends to be associated with criticism. As the disputed domain names have actually been used for the publication of critical content, the Respondents’ understanding must have been the same. Taking the above into account, the Panel concludes that the inclusion of the word “exposed” in each of the disputed domain names shows an intention of their registrants to use them for criticism websites similarly to the way one would use domain names containing derogatory terms.

Therefore, the Panel will consider whether the Respondents’ use of the disputed domain names is prima facie noncommercial and fair. As discussed in section 2.5.3 of the [WIPO Overview 3.0](#), judging whether a respondent’s use of a domain name constitutes a legitimate fair use will often hinge on whether the corresponding website content prima facie supports the claimed purpose (here, criticism), is not misleading as to source or sponsorship, and is not a pretext for tarnishment or commercial gain.

There is nothing in the evidence to support a conclusion that the disputed domain names have been used for commercial purposes, and their content is consistent with the impression created by the inclusion of the word “exposed” in the disputed domain names in the sense that there is nothing other than criticisms against the Second Complainant. These strong criticisms would make it clear to any visitors to the Respondents’

¹ <https://dictionary.cambridge.org/dictionary/english>

² www.icannwiki.org/.exposed

websites that they are not affiliated to the Complainants. The Complainants strongly deny these criticisms, but this alone is not sufficient for a conclusion that the use of the disputed domain names is a pretext for cybersquatting or commercial gain. It is all but universally accepted that there is a right of free speech which includes the right to criticize, and as already stated it is not the Panel's mission to decide whether the Respondents' accusations are true.

The Complainants allege that the Respondents attempt to tarnish the reputation of the Second Complainant. As discussed in *Britannia Building Society v. Britannia Fraud Prevention*, WIPO Case No. [D2001-0505](#), "As for Complainant's assertion of "tarnishment," that phrase, too, has a specific meaning that does not apply here. Tarnishment in this context refers to such unseemly conduct as linking unrelated pornographic, violent or drug-related images or information to an otherwise wholesome mark." The websites at the disputed domain names do not contain such images or information, so the Panel finds no basis to conclude that the Respondents have engaged in tarnishment of the Complainants' trademark.

As noted by the Complainants, the Second Respondent has been the losing respondent in other prior UDRP cases, including another one between the same Parties.³ That case was however different from the present case, because it involved a domain name that was identical to the HAMILTON RESERVE BANK trademark, although it was also used for a criticism website.⁴ As discussed in section 2.6.2 of the [WIPO Overview 3.0](#), panels find that even a general right to legitimate criticism does not necessarily extend to registering or using a domain name identical to a trademark. Even where such a domain name is used in relation to genuine noncommercial free speech, panels tend to find that this creates an impermissible risk of user confusion through impersonation. For this reason, the reasoning in WIPO Case No. [D2023-3923](#) does not apply to the present case, where, as discussed above, the disputed domain names can be regarded as showing an intention of their registrants to use them for criticism websites similarly to domain names containing a derogatory term, to which section 2.6.3 of the [WIPO Overview 3.0](#) applies.

As to the other cases involving the Second Respondent, the concept of a pattern of bad faith notwithstanding, the Complainants have not brought before the Panel any specific arguments why and how they should be regarded as relevant to the present dispute, since the general principle is that each case is decided according to its own merits.

Considering the totality of the circumstances, the Panel therefore concludes that the disputed domain names and the corresponding Respondents' websites are prima facie noncommercial and fair (their veracity not being determined), and it does not appear that they are a pretext for cybersquatting, commercial activity, or tarnishment of the Complainants. On this basis, the Panel finds that the Complainants have failed to establish that the Respondents do not have rights or legitimate interests in the disputed domain names.

Based on the available record, the Panel therefore finds that the second element of the Policy has not been established, and the Complaint must fail.

C. Registered and Used in Bad Faith

As the Complainants have failed to establish the second element of the Policy, it is not strictly necessary to analyze whether the disputed domain names have been registered and are being used in bad faith, but the Panel would note that the same reasoning as above applies here.

³ *Hamilton Reserve Bank, Ltd and Montpelier Group, Ltd. v. Host Master, 1337 Services LLC*, WIPO Case No. [D2023-3923](#)

7. Decision

For the foregoing reasons, the Complaint is denied.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: January 7, 2024