

ADMINISTRATIVE PANEL DECISION

Citadel Enterprise Americas LLC, CE TM Holdings LLC v. nian huang
Case No. D2023-5413

1. The Parties

The Complainants are Citadel Enterprise Americas LLC and CE TM Holdings LLC, United States of America (“United States”), represented by Clare Locke LLP, United States.

The Respondent is nian huang, China.

2. The Domain Name and Registrar

The disputed domain name <citadellcweb.com> is registered with Key-Systems GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 29, 2023. On January 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 3, 2024, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 3, 2024, 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 January 9, 2024.

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 January 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 31, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 1, 2024.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on February 5, 2024. 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 February 12, 2024, in accordance with paragraph 12 of the Rules, the Panel issued Procedural Order 1, requesting the Complainant to submit: a) documents (such as, declarations) showing that the Respondent's scheme has already succeeded in defrauding multiple people; b) a copy of the Respondent's fraud scheme report filed by the Complainant with the law enforcement authorities; and c) printouts of the Respondent's website showing that the Respondent designed his website to mimic the Complainant's investor portal. On February 16, 2024, the Complainant requested to extend the deadline to respond to the Procedural Order until February 23, 2024. On February 19, 2024, the Center notified the Parties of the Panel's Procedural Order 2, allowing the Complainant until February 23, 2024, for its response and giving the Respondent until February 28, 24 to comment on the Complainant's submission.

On February 23, 2024, the Panel received the Complainant's response to Procedural Order 1. The Respondent did not submit any comments in regard to the Procedural Orders.

4. Factual Background

The Complainants in this administrative proceeding are Citadel Enterprise Americas LLC and CE TM Holdings LLC. The Complainants, together with their affiliate Citadel Advisors LLC, utilize the CITADEL trademark in connection with their investment management and advisory services and other financial services, under license from CE TM Holdings LLC. The Complainants' affiliate Citadel Advisors LLC is a prominent, multi-national investment firm based in the United States, managing over USD 60 billion in investment capital. The Complainant has earned a global reputation as a leading investment firm.

The Complainant has numerous registrations for the CITADEL trademark around the world. The Complainant is, inter alia, the owner of the following:

- United States Trademark registration number 2,812,459, for the CITADEL (device) trademark registered on February 10, 2004;
- European Union Trademark registration number 002183283, for the CITADEL (device) trademark registered on April 18, 2002;
- European Union Trademark registration number 002170009, for the CITADEL (word) trademark registered on August 2, 2002.

The disputed domain name was registered on May 5, 2023.

The disputed domain name is currently inactive. From the submissions provided by the Complainant, it appears that previously (at least at the time the Complaint was filed) the Respondent used the disputed domain name for an unauthorized website mimicking the Complainant's website and offering services competing with those of the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the CITADEL trademark, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and particularly that the Respondent designed his website to mimic the Complainant's portal so that third parties would believe that they were making legitimate transactions with the Complainant. The Complainant also underlined that the Respondent's scheme has already succeeded in defrauding multiple persons. The Complainant thus affirms that this is a clear inference of bad faith use and registration of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In order for the Complainant to obtain a transfer of the disputed domain name, paragraph 4(a) of the Policy requires that the Complainant must demonstrate to the Panel that:

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

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.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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

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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed 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 disputed domain name such as those enumerated in the Policy or otherwise.

Furthermore, considering the declarations submitted by the Complainant, the disputed domain name was being used to perpetrate a fraudulent scheme whereby the disputed domain name hosted a landing page featuring the Complainant's mark and logo, albeit in reversed color scheme, requesting log-in information from unsuspecting Internet users thinking they are transacting with the Complainant, causing actual confusion and loss to the Complainant's customers. Previous panels have held that the use of a domain name for illegal activity, here claimed as impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that the Respondent was aware of the Complainant's trademark registrations and rights to the CITADEL trademark when it registered the disputed domain name.

The use and registration of the Complainant's CITADEL trademark significantly predates the registration of the disputed domain name. Moreover, the disputed domain name contains in its entirety, without any authorization or approval, the Complainant's registered CITADEL trademark, and this is the only distinctive component of the disputed domain name. In addition, according to the declarations submitted by the Complainant, which remained unrebutted by the Respondent, the disputed domain name was mimicking the Complainant's website and was successful in fraudulently deceiving third parties into transferring money to the Respondent under the mistaken belief that they are investing with the Complainant.

According to the Complainant's submissions, which were also not refuted by the Respondent, it appears that the Respondent's conduct has already caused significant harm to at least two unsuspecting would-be investors that the Complainant is aware of.

Panels have held that the use of a domain name for illegal activity, here, claimed as impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The disputed domain name is currently inactive. Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the current non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, the composition of the disputed domain name, the previous use of the disputed domain name passing off as the Complainant, and finds that in the circumstances of this case the current passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel finds that the Complainant has established the third element 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 <citadelllcweb.com> be transferred to the Complainant, CE TM Holdings LLC.

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: March 11, 2024