

ADMINISTRATIVE PANEL DECISION

Trondheim Capital, LLC v. Trondheim Caps
Case No. D2024-0142

1. The Parties

Complainant is Trondheim Capital, LLC, United States of America (“United States”), represented by RM Warner P.L.C., United States.

Respondent is Trondheim Caps, United States.

2. The Domain Name and Registrar

The disputed domain name <trondheimcaps.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 January 12, 2024. On January 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 16, 2024, the Registrar transmitted by email to the Center its verification response confirming that 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 Respondent of the Complaint, and the proceedings commenced on January 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 15, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on February 20, 2024.

The Center appointed Robert A. Badgley as the sole panelist in this matter on February 27, 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.

4. Factual Background

Complainant was incorporated in Arizona, United States, in January 2010. According to the Complaint:

“The Complainant is a registered investment advisory firm based in Paradise Valley, Arizona, USA, which manages financial investments for a diverse group of clients located throughout the United States, through various investment vehicles and separately managed accounts.”

On December 14, 2023, Complainant filed an application with the United States Patent and Trademark Office (“USPTO”) to register the mark TRONDHEIM CAPITAL, USPTO Serial No. 98315039, in connection with “Financial information and advisory services; Hedge fund investment services,” with a January 13, 2010 date of first use in commerce.

Complainant alleges that it has used TRONDHEIM CAPITAL as its “public facing company name and as its company trademark or ‘house mark’ since January 13, 2010.” Complainant asserts that it has used the TRONDHEIM CAPITAL mark “on its business cards, documents, and marketing materials, in communications with its clients and potential clients, and in its governmental, regulatory, and other legal filings, since at least as early as January of 2010.”

Complainant has owned the domain name <tronheimcapitalpartners.com> since July 26, 2010, and the domain name <trondheimcap.com> since March 7, 2012. These domain names resolve to Complainant’s commercial website, where Complainant describes its services and invites visitors to log in to their account.

The Domain Name was registered on July 15, 2023. The Domain Name resolved to a website purporting to offer “consulting & finance services built specifically for your business.”

Complainant alleges:

“Respondent’s website is an entirely fake site in which Respondent is falsely pretending to be the Complainant. For example, the first image on the homepage of Respondent’s website states that ‘Trondheim Capital remains at the forefront of assets management and wealth growth using our long lasting approach.’ [...] As another example, the homepage of Respondent’s website prominently displays ‘[redacted] DOUBLETREE RANCH RD. SUITE 300 SCOTTSDALE AZ 85258’ as Respondent’s contact address (in contrast to the different contact addresses Respondent uses elsewhere on the site, and in contrast to the still different address shown in its WHOIS record). The Doubletree Ranch Rd. address is a prior office address for Complainant, which Respondent includes as another means of impersonating Complainant and creating confusion. [...] In multiple places on Respondent’s website, Respondent invites potential investors to contact Respondent by phone or email ([redacted]@trondheim-caps.com) for the purpose of investing with Respondent, who visitors are falsely led to believe is the Complainant. Respondent’s website even goes so far as to link (via the ‘Registration’ link in the website index at the bottom of the homepage) to the Complainant’s actual regulatory filings with the SEC [United States Securities Exchange Commission] in an effort to trade off the Complainant’s legitimacy as a registered investment firm.”

Complainant alleges further:

“The Complainant has already received several inquiries from existing and prospective clients regarding Respondent’s website, including questions of whether and how the Complainant and Respondent are affiliated. For example, on November 20, 2023, one of the Complainant’s existing clients emailed the Complainant’s principal, and asked him ‘Who are these guys in Scottsdale?, with a link to Respondent’s website. [...] Especially in light of these inquiries, the Complainant is justified in believing that if Respondent is allowed to continue owning the [Domain Name] and using it with Respondent’s website to impersonate the Complainant, it is only a matter of time before one of the Complainant’s existing or prospective clients is deceived into sending Respondent their private personal information (including financial information) and/or sending Respondent money.”

Complainant annexes to the Complainant documentary evidence of the November 20, 2023, email discussed above.

Complainant states that, on December 22, 2023, it created an email account and emailed Respondent as "Walter [redacted]," in order to find out how Respondent was responding to potential investors who contact Respondent through the email address provided on Respondent's website. In response to "Walter's" inquiries, Respondent stated, "Your 3.5% daily profit is guaranteed," and Trondheim "has expert traders and uses A.I machine to trade for the investors and you don't need much technical knowledge to start." This exchange is annexed to the Complaint.

According to Complainant, it "does not ever 'guarantee' any investments, as it is illegal (at least in the U.S.) to represent to potential investors that positive returns on investments are 'guaranteed.'"

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

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

A. Identical or Confusingly Similar

The Panel finds that Complainant holds rights in the unregistered trademarks TRONDHEIM CAPITAL and TRONDHEIM CAP through use demonstrated in the record, particularly with reference to Complainant's commercial website.

The Panel finds that the Domain Name is confusingly similar to those marks. The dominant portion of the marks, TRONDHEIM, is entirely incorporated into the Domain Name, and the additional word "caps" is similar to the words cap and capital. In short, Complainant's marks are recognizable within the Domain Name.

Complainant has established Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your 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) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Name. Respondent has not come forward to dispute Complainant's allegations or articulate some bona fide basis for registering the Domain Name. On the undisputed record, the Panel concludes that Respondent targeted Complainant's marks to generate revenue through consumer confusion, created by Respondent's impersonation of Complainant, between the Domain Name and Complainant's marks. Such a use of the Domain Name is clearly illegitimate.

Complainant has established Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, "in particular but without limitation," are evidence of the registration and use of the Domain Name in "bad faith":

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes that Respondent has registered and used the Domain Name in bad faith. The Panel incorporates here its discussion above in the "Rights or Legitimate Interests" section. The Panel finds, on this undisputed record and on a balance of probabilities, that Respondent had Complainant and its marks in mind when registering the Domain Name. The Panel notes that "Trondheim" is not a common name, and it's the fact that both Parties are engaged in (or pretend to be engaged in, in the case of Respondent) the financial services sector, trading under the name "Trondheim," is difficult to chalk up to coincidence. It is also clear from Respondent's use of Complainant's former street address, and Respondent's hyperlink to Complainant's SEC filings, that Respondent is clearly trying to impersonate Complainant and thereby deceive consumers.

As discussed above, the Panel concludes that Respondent targeted Complainant's marks in order to impersonate Complainant for commercial gain. This use of the Domain Name falls within the above-quoted Policy paragraph 4(b)(iv), and hence constitutes bad faith registration and use of the Domain Name.

Complainant has established Policy paragraph 4(a)(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 <trondheimcaps.com> be transferred to Complainant.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: March 12, 2024