

ADMINISTRATIVE PANEL DECISION

Cincinnati Bell, Inc. v. xu hai min
Case No. D2024-0224

1. The Parties

The Complainant is Cincinnati Bell, Inc., United States of America (“United States”), represented by Frost Brown Todd LLC, United States.

The Respondent is xu hai min, Singapore.

2. The Domain Name and Registrar

The disputed domain name <myaltafiber.net> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 18, 2024. On January 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 19, 2024, the Registrar transmitted by email to the Center its verification disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Redacted for Privacy, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 22, 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 25, 2024, and re-submitted one of the Annexes to the Complaint due to file size on January 29, 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 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 19, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 22, 2024.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on February 23, 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

The Complainant offers telecommunication products and services under the brand name CINCINNATI BELL since 1984. This brand name was changed to ALTAFIBER as of March 2, 2022. The Complainant owns trademark registrations for ALTAFIBER such as:

- United States trademark registration No. 6,881,221, registered on October 18, 2022.
- United States trademark registration No. 7,076,074, registered on June 6, 2023.

The Complainant owns the domain name <altafiber.com>, registered in April 2021, and has used this domain name to promote its business since March 2, 2022.

The disputed domain name was registered on August 20, 2023, and resolves to a parking page with Pay-Per-Click ("PPC") links for optical fiber cables.

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 identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The disputed domain name incorporates the Complainant's trademark in its entirety. The generic Top-Level Domain ("gTLD") ".net" does not eliminate confusing similarity nor does the addition of "my".

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with the Complainant nor is it a licensee. There is no legitimate or bona fide use of the disputed domain name.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. This is a case of passive holding and of opportunistic bad faith. The disputed domain name implies that potential consumers may obtain information about the Complainant's services. The Respondent has used a privacy shield.

B. Respondent

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

6. Discussion and Findings

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 term, here, "my", 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 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.

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.

In the present case, the Panel notes that the disputed domain name incorporates the Complainant's prior registered trademark ALTAFIBER in its entirety and is also very similar to the Complainant's domain name <altafiber.com>. Further, the disputed domain name resolves to a page with PPC links for optical fiber cables. Therefore, the Panel finds that the Respondent knew or should have known of the Complainant at the time of registration of the disputed domain name. [WIPO Overview 3.0](#), section 3.2.2. By using the disputed domain name for a website with PPC links, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location by creating a likelihood of confusion with the Complainant's mark. Such use constitutes bad faith pursuant to paragraph 4(b)(iv) of the Policy.

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 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 <myaltafiber.net> be transferred to the Complainant.

/Nayiri Boghossian/

Nayiri Boghossian

Sole Panelist

Date: March 1, 2024