

ADMINISTRATIVE PANEL DECISION

LATIN PRO LLC v. Baraka Antony

Case No. D2024-0719

1. The Parties

The Complainant is LATIN PRO LLC, United States of America (“United States” or “US”), represented by Opice Blum, Brazil.

The Respondent is Baraka Antony, Uganda.

2. The Domain Name and Registrar

The disputed domain name <latinprollc.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 16, 2024. On February 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 21, 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 (NameCheap Inc), and contact information in the Complaint. The Center sent an email communication to the Complainant on February 27, 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 amendment to the Complaint on February 28, 2024.

The Center verified that the Complaint together with the amendment to 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 the Respondent of the Complaint, and the proceedings commenced on February 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 21, 2024.

The Center appointed Taras Kyslyy as the sole panelist in this matter on March 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

The Complainant is a company created in the United States in order to provide logistics for the supply chain industry. The Complainant is based in Florida and provides services for Africa, Asia and Latin America.

The Complainant has been granted exclusive rights to use the trademark LATIN PRO which was registered by Optimo Consultoria EIRELI (US trademark registration No. 6,629,550 for the LATIN PRO and design mark, registered on January 25, 2022).

The Complainant owns the domain name <latinpros.com>.

The disputed domain name was registered on May 12, 2023 and resolved to a website providing the Complainant's postal address and designed to make a false impression it is owned or authorized by the Complainant. The disputed domain name has also been used for conducting frauds. At the time of the Decision, the disputed domain name does not resolve to any active website.

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 the Complainant's trademark. The only difference in the disputed domain name lies in the exclusion of the letter "s" (compared to the Complainant's domain name) and the inclusion of the term "llc", the corporate type of the company in the United States. The disputed domain name includes an exact reproduction of the Complainant's trademark. The disputed domain name used may confuse third parties, including the Complainant's partners and customers.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has never licensed, permitted, or authorized any use, by the Respondent, of its trademark. The Complainant has been unable to identify any substantiated evidence supporting the Respondent's rights or legitimate interests. The Respondent has established a disputed domain name, utilizing the Complainant's trademark. This fraudulent act was orchestrated with the intention of masquerading as a chemical distributor in the American market, in order to confuse customers and partners of the Complainant.

The website at the disputed domain name indicated the real address of the Complainant as its own address. Also, an email named "[redacted]@latinprollc.com" was created by the Respondent and indicated online to the public, which also proves that the Respondent was trying to act as if it was or even as if it had the authorization to use the Complainant's trademark, which resulted in claims against the Complainant and damages to its reputation. The Respondent has also established other deceptive email addresses associated with the disputed domain name. These were utilized to impersonate an employee of the company, thus attempting to procure products under the guise of being the Complainant. The Respondent had the intention of impersonating the Complainant and running financial scams on other companies who think they were negotiating products or offering products/services for the Complainant, but who were actually negotiating products with someone pretending to be the Complainant. There can be no bona fide or legitimate interest or even fair use in such a pattern of the use of the disputed domain name. The Respondent has requested to hide its identity and personal data by contracting a company that offers this service. As the Respondent has concealed its own personal data, it is impossible to verify whether the Respondent is commonly known by the disputed domain name. Moreover, the disputed domain name has been used to commit fraud. Therefore, the Respondent cannot be considered as being commonly known by the disputed domain name.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. The disputed domain name was not registered by the Respondent until at least five months after the Complainant be granted its trademark application in the United States. The Respondent registered the disputed domain name to use the Complainant's trademark, knowing the Complainant's operation and trademark registration, as a way of taking advantage of the situation. The Respondent registered the disputed domain name in order to confuse companies who think they were negotiating services with the Complainant, but who were actually negotiating services with someone else pretending to be the Complainant.

The bad faith is evidenced by the fact that: (i) even though the disputed domain name does not resolve to an active website anymore, it contains the Complainant's trademark and company name; (ii) the Respondent has also created email addresses associated with the disputed domain name in order to confuse customers and partners into think they are dealing with the Complainant; and (iii) the Respondent has pretended to be an employee of the Complainant to negotiate products in the name of the Complainant by using email addresses associated with the disputed domain name as its contact details.

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 provided evidence that it has been granted exclusive rights to use the trademark LATIN PRO by the trademark owner Optimo Consultoria EIRELI. As discussed in section 1.4 of the [WIPO Overview 3.0](#), a trademark owner's affiliate such as an exclusive trademark licensee, is considered to have rights in a trademark under the UDRP for purposes of standing to file a complaint. Therefore, the Panel finds that the Complainant has rights in the LATIN PRO trademark .

Panel's assessment of identity or confusing similarity involves comparing the (alpha-numeric) domain name and the textual components of the relevant mark. To the extent that design (or figurative/stylized) elements would be incapable of representation in domain names, these elements are largely disregarded for purposes of assessing identity or confusing similarity under the first element. [WIPO Overview 3.0](#), section 1.10. Thus, the Panel disregards design element of the Complainant's trademark for the purposes of the confusing similarity test.

The applicable generic Top-Level Domain ("gTLD") in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1. Thus, the Panel disregards the gTLD ".com" for the purposes of the confusing similarity test.

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, "llc", 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 available evidence does not confirm that the Respondent is commonly known by the disputed domain name, which could demonstrate its rights or legitimate interests (see, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones, TheDotCafe*, WIPO Case No. [D2008-0642](#)).

The Complainant did not license or otherwise agree for use of the prior registered LATIN PRO trademark by the Respondent in the disputed domain name. The disputed domain name used to redirect Internet users to a website containing the Complainant’s postal address and designed to make Internet users believe that they actually access the website of the Complainant or authorized by the Complainant. The Respondent has intentionally and fraudulently attempted to pass itself off as the Complainant by using email addresses associated with the disputed domain name in an effort to obtain products from a third party without paying them. Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. The Panel finds that such illegal activity prove that the Respondent has no rights or legitimate interests in the disputed domain name.

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 Respondent registered the disputed domain name that is confusingly similar to the LATIN PRO trademark and the Complainant’s company name and then placed a website featuring the Complainant’s real postal address. The Panel finds this proves the Respondent knew or should have known of the LATIN PRO trademark and targeted the Complainant when registering the disputed domain name, which is bad faith.

In addition, the Respondent has used email addresses associated with the disputed domain name to impersonate an employee of the Complainant, thus attempting to procure products under the guise of being the Complainant without paying them. Panels have held that the use of a domain name for illegal activity here, claimed use of the disputed domain name for a website making false impression to be associated with the Complainant, and in email addresses to impersonate the Complainant and to deceive at least a third party making them entering into contracts with the Respondent for fraudulent purpose, 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 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 <latinprollc.com> be transferred to the Complainant.

/Taras Kyslyy/

Taras Kyslyy

Sole Panelist

Date: April 10, 2024