

ADMINISTRATIVE PANEL DECISION

CSC Brands LP v. Name Redacted

Case No. D2024-1387

1. The Parties

Complainant is CSC Brands LP, United States of America (“United States”), represented by SILKA AB, Sweden.

Respondent is Name Redacted.¹

2. The Domain Name and Registrar

The disputed domain name <campbellsoupcompany-us.com> is registered with PSI-USA, Inc. dba Domain Robot (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 2, 2024. On April 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 3, 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”).

¹The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on April 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 6, 2024. On May 3, 2024, the Center received an email communication from a third party indicating its name and contact details had been used fraudulently by Respondent to register the disputed domain name. Pursuant to paragraph 6 of the Rules, on May 8, 2024, the Center informed the Parties that it would proceed with the panel appointment process.

The Center appointed Frederick M. Abbott as the sole panelist in this matter on May 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

Complainant is a corporation registered in the State of Delaware, United States. Complainant manufactures and markets food products, including soups, baked snacks, vegetable-based beverages, and premium chocolate products. Complainant has approximately 14.5 thousand employees in North America and its offerings are sold in more than 120 countries across the world. Complainant reported net sales of USD 9.4 billion in fiscal 2023. Complainant promotes its business through the websites associated with the domain names <campbellsoupcompany.com> and <campbells.com>.

Among Complainant's products is "Campbell's Soup", a product and brand that are "iconic" as the subject of one of Andy Warhol's early and best-known paintings. The Panel takes administrative notice that the CAMPBELL'S brand is well known in the United States. The trademark owner continues to widely advertise and to sell its products through grocery chains and other outlets.

Complainant is the owner of registration for the word, and word and design trademark, CAMPBELL'S on the Principal Register of the United States Patent and Trademark Office ("USPTO"), including word and design registration number 299495, registration dated December 6, 1932, in international class (IC) 32, covering canned tomato juice; word registration number 1839540, registration dated June 14, 1994, in IC 30, covering sauces, and; word registration number 2052959, registration dated April 15, 1997, in IC 29, covering soup.

According to the Registrar's verification, Respondent is registrant of the disputed domain name. According to the Whois report, the disputed domain name was created on August 9, 2023. The Panel notes that according to information provided by a third party, the name of the registrant and contact details identified in the Whois report were used without the consent of the named individual and corporation.

There is no indication in the record of this proceeding that the disputed domain name has been used in connection with an active website. The disputed domain name registration data includes a "Gmail" address incorporating the name of the falsely identified registrant of the disputed domain name and his corporate affiliation. There is no evidence on the record of this proceeding of use of the disputed domain name as an email domain.

There is no indication that Complainant is in any way associated with the party that registered the disputed domain name.

5. Parties' Contentions

A. Complainant

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

Complainant alleges that it owns rights in a trademark and that the disputed domain name is confusingly similar to that trademark.

Complainant argues that Respondent lacks rights or legitimate interests in the disputed domain name because: (1) Respondent has no registered or unregistered trademark rights in the disputed domain name or any similar term, nor has it been licensed by Complainant to use its trademark in the disputed domain name or otherwise; (2) Respondent has not used or engaged in preparation to use the disputed domain name for a bona fide offering of goods or services; (3) Respondent's use of the disputed domain name would create a high risk of affiliation with Complainant, and; (4) Respondent has not been known by Complainant's distinctive trademark.

Complainant contends that Respondent registered and is using the disputed domain name in bad faith because: (1) Complainant's trademark is well known and Respondent must have been aware of Complainant's trademark when it registered the disputed domain name; (2) there is no evidence that Respondent used or attempted to use the disputed domain name in good faith, which would not in any case be possible; (3) Respondent's registration falsely using the details of a third party affiliated with another company suggests an effort to conceal the identity of the registrant.

Complainant requests that the Panel direct the Registrar to transfer the disputed domain name to Complainant.

B. Respondent

Respondent did not reply to Complainant's contentions.

By email dated May 3, 2024, the Center and Complainant received from counsel for Name Redacted, who is a major US health services company, notice that the individual name used in registering the disputed domain name is the same as that of a senior officer of that company, and the registration form lists the physical address of Name Redacted, but the identified individual has not in any way been associated with registration of the disputed domain name. An email address used as part of the registrant Information, with the name and corporate affiliation of that individual, is not related to Name Redacted. The Center and Complainant acknowledged receipt of this third-party communication.

6. Discussion and Findings

It is essential to the Policy proceedings that fundamental due process requirements be met. Such requirements include that a respondent have notice of proceedings that may substantially affect its rights. The Policy and the Rules establish procedures intended to ensure that respondents are given adequate notice of proceedings commenced against them and a reasonable opportunity to respond (see, e.g., Rules, paragraph 2(a)).

The Center formally notified the Complaint to Respondent at the email and physical addresses provided in its record of domain name registration. Courier delivery of the Complaint to the named Respondent was completed. The physical address in Respondent's record of registration is the physical business address of the individual and corporation falsely named as registrant. There is no indication of difficulty in transmission of email notification to Respondent. The Center took those steps prescribed by the Policy and the Rules to provide notice to Respondent, and those steps are presumed to satisfy notice requirements.

Paragraph 4(a) of the Policy sets forth three elements that must be established by a complainant to merit a finding that a respondent has engaged in abusive domain name registration and use and to obtain relief.

These elements are that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which complainant has rights;
- (ii) 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.

Each of the aforesaid three elements must be proved by a complainant to warrant relief.

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 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.

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 Panel finds the mark is recognizable 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 "oup", "company" and "-us", 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 Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on 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 respondent lacks rights or legitimate interests, the burden of production on this element shifts to respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on complainant). If 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted 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 that the use of the disputed domain name for illegal activity, here claimed impersonation of an unrelated corporate officer in registration of the disputed domain name, can never confer rights or legitimate interests on Respondent.

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 Respondent registered the disputed domain name incorporating the well-known trademark of Complainant long after Complainant's trademark became well known. Respondent was manifestly aware of Complainant's trademark when it registered the disputed domain name particularly considering the disputed domain name is very similar to Complainant's own domain name <campbellsoupcompany.com>.

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.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the 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 complainant's mark, (ii) the failure of respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) 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 and reputation of Complainant's trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel finds that the use of the disputed domain name for illegal activity, here impersonation of an unrelated corporate officer in registration of the disputed domain name, constitutes bad faith.

The Panel further notes that in addition to providing false information in registering the disputed domain name, the registrant-in-fact created a Gmail address incorporating the name of the corporate officer listed as registrant, as well as the identity of the corporation where he is employed. This strongly implies an intention on behalf of the registrant-in-fact to use that false identity for some unlawful purpose. In this regard the actions of the registrant-in-fact evidence bad faith within the meaning of the Policy.

Having reviewed the record, the Panel finds Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that Complainant has established the third element of the Policy.

Because the party named as Respondent was the subject of identity theft, the Panel considers it appropriate to redact his name and the name of his corporate employer from this decision. The Panel will direct the Registrar to transfer the disputed domain name in accordance with the information provided in Annex 1, which annex should not be published.

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 <campbellsoupcompany-us.com> be transferred to Complainant.

/Frederick M. Abbott/

Frederick M. Abbott

Sole Panelist

Date: June 4, 2024