

ADMINISTRATIVE PANEL DECISION

Potter Electric Signal Company, LLC v. Mihaela Martac
Case No. D2024-1572

1. The Parties

The Complainant is Potter Electric Signal Company, LLC, United States of America ("United States"), represented by Lewis Rice, LLC, United States.

The Respondent is Mihaela Martac, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <pottersignal.com> is registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 12, 2024. On April 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 16, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. In response to a notification by the Center that the Complaint was administratively deficient, the Complainant filed an amended Complaint on April 19, 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 April 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 21, 2024.

The Center appointed Alejandro Garcia as the sole panelist in this matter on May 31, 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, founded in 1898, manufactures life safety devices including fire sprinkler systems and some detectors.

The Complainant is the owner of several trademark registrations around the world including, among others, the following:

Trademark	Registration No.	Jurisdiction	Date of Registration
POTTER	2768735	United States	September 30, 2003
POTTER	002394823	European Union	October 30, 2002
POTTER	UK00902394823	United Kingdom	October 30, 2002
POTTER	TMA612763	Canada	June 15, 2004

The Complainant also owns the domain name <pottersignal.com>.

The disputed domain name was registered on January 31, 2024. According to the evidence submitted by the Complainant, which was not refuted by the Respondent, the Respondent registered the disputed domain name to impersonate and pose as the Complainant.

In addition, the Complainant contends that the Respondent is using the disputed domain name wrongfully to seek to invoice the Complainant's customers in the name of Complainant, and more specifically by impersonating an employee of the Complainant and sending fraudulent email messages to the Complainant's customers.

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.

Identical or Confusingly Similar

The Complainant states that the disputed domain name is confusingly similar to the POTTER trademarks and domain name <pottersignal.com>, in respect of which it has rights.

In particular, the Complainant argues the disputed domain name is confusingly similar in sound, appearance, connotation, and commercial impression to Complainant's well-known name and trademark POTTER, and is nearly identical to Complainant's domain name, <pottersignal.com>, differing only by one letter, namely a "q" instead of a "g" in the term "signal". The Complainant contends that the Respondent's intentionally misspelled the Complainant's domain name to create a high risk of confusion with the Complainant's registered trademarks and commercial identity leading third parties to believe that the disputed domain name is registered with the Complainant, which is not correct.

Rights or Legitimate Interests

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has not licensed or otherwise authorized the Respondent to use the POTTER name, mark, or any other mark similar thereto, or the disputed domain name, in any capacity. To the Complainant's knowledge, the Respondent has never been commonly known by "pottersignal," "Potter Signal," or any other name or trademark similar to POTTER.

The Complainant contends that it has made continued and uninterrupted use of the POTTER trademark since at least as early as 1938, and, in addition to the registered rights detailed above in section 4, it enjoys common law rights to its POTTER trademark. The Complainant asserts that the Respondent registered the disputed domain name with actual or constructive knowledge of the Complainant's rights to the well-known POTTER trademark.

Registered and Used in Bad Faith

The Complainant asserts that the Respondent registered and began using the disputed domain name to intercept fraudulently communications between the Complainant and its customers, transmit its own correspondence and attempt to redirect the funds from purchase orders placed by the Complainant's customers. The fraudulent communications and invoices use the Complainant's POTTER trademark in an attempt to impersonate the Complainant and its employees, causing the Complainant's customers to trust the communication and direct their funds to the Respondent's bank account.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy states that the domain name holder is to submit a mandatory administrative proceeding in the event that a third party (complainant) asserts to the Center that:

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

Given the Respondent's failure to submit a response, the Panel may decide this proceeding based on the Complainant's undisputed factual allegations under paragraphs 5(f), 14(a) and 15(a) of the Rules, and shall draw such inferences it considers appropriate under paragraph 14(b) of the Rules (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#), and *Encyclopaedia Britannica, Inc. v. null John Zuccarini, Country Walk*, WIPO Case No. [D2002-0487](#)).

A. Identical or Confusingly Similar

Under paragraph 4(a)(i) of the Policy, the Complainant is required to establish that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights. The Panel finds that the Complainant has provided uncontested evidence to establish that it has rights over the trademark POTTER.

The Panel finds that the Complainant's POTTER mark is clearly recognizable in the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purpose of the Policy.

Although the addition of other terms here, "signal", may bear on the 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 therefore finds that paragraph 4(a)(i) has been satisfied based upon the disputed domain name being confusingly similar to the Complainant's trademark.

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.

“(i) before any notice [...] of the dispute, [the respondent’s] 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) [The respondent] (as an individual, business, or other organization) [has] been commonly known by the domain name, even if [the respondent has] acquired no trademark or service mark rights; or
(iii) [The respondent is] 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 Complainant’s uncontested evidence shows that the Respondent did not use or intend to use the disputed domain name in connection with a bona fide offering of goods or services. There is no evidence that the Respondent is commonly known by the disputed domain name. In addition, the Respondent was not authorized by the Complainant to use the disputed domain name or its mark. The Complainant’s uncontested evidence shows the Respondent’s use of the disputed domain name for commercial gain by creating a likelihood of confusion with the Complainant’s trademark.

The Panel concludes that the Complainant has made a prima facie case that the Respondent does not have any rights or legitimate interests in the disputed domain name and that none of the circumstances set out in paragraph 4(c) of the Policy apply. The Respondent has not rebutted the Complainant’s contentions. Therefore, the Complainant meets the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular but without limitation, shall be considered evidence of the registration and use of a domain name in bad faith:

“(i) circumstances indicating that [the respondent] registered or [...] acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant [the owner of the trademark or service mark] or to a competitor of that complainant, for valuable consideration in excess of [the respondent’s] documented out-of-pocket costs directly related to the domain name; or
(ii) [circumstances indicating that the respondent] 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 [the respondent has] engaged in a pattern of such conduct; or
(iii) [circumstances indicating that the respondent] registered the domain name primarily for the purpose of disrupting the business of a competitor; or
(iv) [circumstances indicating that the respondent is using the domain name to] intentionally attempt to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of [the respondents’] website or location or of a product or service on its website or location.”

On the basis of the evidence before it, and in particular the fact that the Respondent used the disputed domain name for financial gain by creating a likelihood of confusion with the Complainant’s trademark, causing the Complainant’s customers to trust the fraudulent email communications under the impression of being from an employee of the Complainant and direct their funds to the Respondent’s bank account, the Panel finds that the Respondent has engaged in bad faith registration and use within the meaning of paragraph 4(b)(iv) of the Policy.

On the basis of this finding, the Panel concludes that the disputed domain name has been registered and is being used in bad faith and therefore, the Complainant meets the requirements of paragraph 4(a)(iii) 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, <pottersignal.com> be transferred to the Complainant.

/Alejandro Garcia/

Alejandro Garcia

Sole Panelist

Date: June 14, 2024