

ADMINISTRATIVE PANEL DECISION

Agnico Eagle Mines Limited v. trust crystals, agnicogroup
Case No. D2024-1856

1. The Parties

The Complainant is Agnico Eagle Mines Limited, Canada, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is trust crystals, agnicogroup, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <agnicogroup.com> is registered with Hostinger Operations, UAB (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 2, 2024. On May 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 2, 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 (Domain Admin, PrivacyProtect.org) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 3, 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 May 7, 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 May 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 31, 2024.

The Center appointed Theda König Horowicz as the sole panelist in this matter on June 6, 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 founded in 1957 and which is a senior Canadian gold mining company, producing precious metals from operations in Canada, Australia, Finland, and Mexico. The company's current name which has been evolving since its creation relates to the chemical symbols for silver (Ag), nickel (Ni) and cobalt (Co).

In 2023, Corporate Knights recognized Agnico Eagle Mines Limited as one of their Top 50 Canadian Corporate Citizens. Along with other rewards and recognitions, Agnico Eagle Mines Limited is a member of the World Gold Council.

The Complainant maintains a strong online presence including in social media. It operates a website under the domain name <agnicoeagle.com> which reproduces a stylised logo of an eagle and which is prominently using the colours black and gold.

The Complainant is the owner of trademark registrations comprising AGNICO EAGLE across various jurisdictions, notably European Union trademark registration No 014402978, in international classes 37 and 42 of May 11, 2015.

The disputed domain name was registered on August 25, 2023. At the time of the filing of the Complaint, the disputed domain name directed Internet users to a website copying and attempting to duplicate the Complainant's official website.

The Complainant sent via email in February and March 2024 cease and desist letters to the Respondent which remained unanswered.

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 to have trademark and service mark registrations in AGNICO EAGLE. The disputed domain name partially incorporates Complainant's AGNICO EAGLE trademark, with the addition of the dictionary term "group". The omission of the part "EAGLE" of the Complainant's trademark does not prevent the finding of confusing similarity between the latter and the disputed domain name since Complainant's trademark is still readily recognizable in the disputed domain name. Additionally, Respondent's use of the disputed domain name contributes to the confusion.

Furthermore, the Complainant contends that the Respondent is not sponsored by or affiliated with Complainant in any way. The Complainant has not given the Respondent permission to use the Complainant's trademarks in any manner, including in domain names. The Respondent is not commonly known by the disputed domain name, which evidences a lack of rights or legitimate interests. According to Nigeria's official company search, no entity was registered under the Respondent's name "agnicogroup". Furthermore, at the time of filing the Complaint, the Respondent was using a privacy Whois service which equates to a lack of legitimate interest. The disputed domain name directs Internet users to a website that copies and attempts to duplicate the Complainant's official website by copying exact text from the

Complainant's "About Agnico" section and the color scheme of gold and black found on the Complainant's website all as a means of deceiving Internet users into believing that the disputed domain name and its website are associated with the Complainant. Thus, the website at which the disputed domain name resolves seeks to take advantage of the fame of Complainant's trademarks and the trust and goodwill of the Complainant.

Finally, the Complainant contends that its AGNICO EAGLE trademark is known internationally, with trademark registrations across numerous countries and jurisdictions. The Complainant has marketed and sold its goods and services using this trademark since 1972, which is well before Respondent's registration of the disputed domain name on August 25, 2023. By registering a domain name that incorporates the Complainant's trademark and company name, the Respondent has demonstrated a knowledge of and familiarity with the Complainant's brand and business. The Respondent is using the disputed domain name's website to fraudulently pose as the Complainant for purposes of launching a phishing attack, which is evidence of bad faith use. The Respondent has deliberately copied text from the Complainant's website in an attempt to impersonate the Complainant and used a similar color scheme of gold and black to the Complainant's website thus trying to deceive Internet users into believing that the Complainant is the source of the website and inciting the Internet users to give their personal or financial information as part of the Respondent's phishing scheme. Additionally, the Respondent employed a privacy service to hide its identity.

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 the trademark AGNICO EAGLE for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The distinctive term AGNICO is entirely reproduced in the disputed domain name. Accordingly, the Panel finds that a dominant feature of the Complainant's trademark is recognizable within the disputed domain name. [WIPO Overview 3.0](#), section 1.7. The addition of the term "group" may bear on assessment of the second and third elements, but the Panel finds that 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 case file specifically shows that the disputed domain name copies the layout and partially the content of the Complainant's website and provides the possibility for Internet users to give their name and details. Such impersonation and phishing can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 finds that the Respondent, at the time of registration of the disputed domain name, must have been aware of the Complainant's trademark AGNICO EAGLE, noting (i) that the distinctive part of the said mark, that is AGNICO, is entirely reproduced in the disputed domain name and (ii) the reputation and online presence of the Complainant notably under the domain name <agnicoeagle.com>.

Furthermore, as for use of the disputed domain name in bad faith, having reviewed the available record, the Panel finds that the use of the disputed domain name is a clear-cut case of bad faith use since the website resolving at the disputed domain name copies the layout and part of the content of the Complainant's official website. The Respondent's website also invites Internet users to register their name and details thus fraudulently attempting to collect information.

The fact that the Respondent has chosen not to respond in the present proceedings and that it concealed its identity and obviously used a false name (agnicogroup) and false contact details are additional elements showing the Respondent's bad faith.

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 <agnicogroup.com> be transferred to the Complainant.

/Theda König Horowicz/

Theda König Horowicz

Sole Panelist

Date: July 1, 2024