

ADMINISTRATIVE PANEL DECISION

But International v. alain weddin

Case No. D2024-1879

1. The Parties

The Complainant is But International, France, represented by Nameshield, France.

The Respondent is alain weddin, France.

2. The Domain Name and Registrar

The disputed domain name <admin-but.com> is registered with Combell NV (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 3, 2024. On May 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 8, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 17, 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 17, 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 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 24, 2024.

The Center appointed Elise Dufour as the sole panelist in this matter on July 9, 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

Created in 1972, the Complainant is BUT INTERNATIONAL (operating under the name BUT) a French brand of stores specializing in household equipment.

With over 330 stores in France and 9000 employees, BUT INTERNATIONAL generates sales of EUR 2,7 billion and has become the second-largest French furniture industry.

The Complainant is the owner of several trademarks BUT, such as :

- International trademark BUT n°974306 registered on December 28, 2007;
- French trademark BUT n°98756795 registered on April 16, 1999.

The Complainant also owns many domain names comprising the trademark BUT, such as :

- the domain name <but-corporate.fr> registered on January 21st, 2022;
- the domain name <but.fr> registered on November 11, 1996.

The disputed domain name <admin-but.com> was registered on August 7, 2023, and resolves to a registrar parking page. Besides, according to the evidence provided by the Complainant, the Respondent has used the disputed domain name in connection with a phishing email scheme impersonating an employee of the Complainant and attempting to illegally procure large orders on credit and in the Complainant's name.

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 confusingly similar to the Complainant's BUT trademark, as it is identically contained. For the Complainant, the addition of the generic term "ADMIN" does not change the overall impression of the designation as being connected to the Complainant's trademark BUT.

In addition, the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant does not know the Respondent. The Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant does not carry out any activity for, nor has any business with the Respondent. The Complainant has not licensed the Respondent to use the Complainant's BUT trademark and has not authorized the Respondent to register the disputed domain name. Besides, the disputed domain name has been used in a phishing scheme. Indeed, the Respondent attempted to pass off as one of the Complainant's employees.

Finally, the Respondent registered and used the disputed domain name in bad faith. As per the registration, the Complainant stresses that the Complainant was already extensively using his trademark BUT well before that date of the registration of the disputed domain name. As per the use, the Complainant underlies that the disputed domain name is used in a phishing scheme in which the Respondent has attempted to pass off as one of the Complainant's employees. Use of a domain name for purposes of phishing or other fraudulent activity constitutes solid evidence of bad faith use under paragraph 4(a)(iii) of the Policy.

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.

Based on the available record, the Panel finds 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 Panel finds the entirety of the mark BUT 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.

While the addition of other terms (here, the term "admin" as an abbreviation for "administrator", and a hyphen) 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 Complainant's BUT trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, 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 Complainant has confirmed that the Respondent is not affiliated with the Complainant, or otherwise authorized or licensed to use the BUT trademarks or to seek registration of any domain name incorporating the trademark.

The Respondent is also not known to be associated with the BUT trademark, and there is no evidence showing that the Respondent has been commonly known by the disputed domain name. [WIPO Overview 3.0](#), section 2.3.

Based on the available record, the Panel finds that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. [WIPO Overview 3.0](#), section 2.4.

In particular, panels have 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.

In this context, this Panel has noted that the disputed domain name was used in connection with a phishing scheme, wherein the Respondent impersonated an employee of the Complainant and attempted to perpetrate financial fraud. Such use of the disputed domain name may, therefore, not confer any rights or legitimate interests within the meaning of the Policy.

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.

Based on the available record, 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 Complainant's well-known BUT trademark substantially predates the Respondent's registration of the disputed domain name.

Moreover, the Respondent's knowledge of the Complainant and its trademark can be readily inferred from the Respondent's prior use of the disputed domain name, which has been used to send the fraudulent emails impersonating an employee of the Complainant trying to perpetuate a financial fraud. Panels have 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) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Furthermore, using the disputed domain name for illegal phishing activities by sending fraudulent emails under it, thereby impersonating an employee of the Complainant, and seeking to unlawfully secure substantial orders on credit in the name of the Complainant, is a clear indication that the Respondent intentionally attempted to attract, for commercial gain, Internet users to its own email communication by creating a likelihood of confusion with the Complainant's BUT trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's phishing emails. Such circumstances are evidence of registration and use of the disputed domain name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy. [WIPO Overview 3.0](#), sections 3.1 and 3.4.

Based on the available record, 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 <admin-but.com> be transferred to the Complainant.

/Elise Dufour/

Elise Dufour

Sole Panelist

Date: July 24, 2024