

## **ADMINISTRATIVE PANEL DECISION**

Tempcover Ltd v. Jacob Stevenson  
Case No. D2024-2056

### **1. The Parties**

The Complainant is Tempcover Ltd, United Kingdom (“UK”), represented by AA Thornton IP LLP, UK.

The Respondent is Jacob Stevenson, UK.

### **2. The Domain Name and Registrar**

The disputed domain name <insurancetempcover.com> is registered with One.com A/S (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 16, 2024. On May 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 22, 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 23, 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 May 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 May 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 19, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 21, 2024. The Respondent sent email communications to the Center on June 21, 2024, which are considered below.

The Center appointed Antony Gold as the sole panelist in this matter on June 28, 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 part of the RVU group of companies which is based in the UK and is active in the fields of financial services and insurance. The Complainant commenced business in 2006 and provides flexible short-term motor vehicle insurance cover. Its trading style was initially "Temporary Cover", but it rebranded to "Tempcover.com" in 2010 and now primarily uses the brand TEMPCOVER. By 2016 it had sold 2 million policies. The Complainant has won a number of industry awards for its services.

The Complainant owns trade marks which comprise or include the term "Tempcover". These include, by way of example, UK trade mark registration for TEMPCOVER (stylized), registration number UK00003399923, in class 36, registered on August 16, 2019. It also owns and operates the domain name <tempcover.com> which resolves to a website from which its services can be accessed.

The disputed domain name was registered on April 15, 2024. It has previously resolved to a copy of the Complainant's website. Clicking on any of the links on the website took the Internet user to the corresponding page on the Complainant's website.

The disputed domain name does not presently resolve to an 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 a trade mark in which it has rights in that it incorporates the entirety of the Complainant's TEMPCOVER mark and simply combines it with the descriptive term "insurance", which Internet users are likely to perceive as confirming that the Respondent's website is a place where Internet users can go to purchase or obtain further information about the Complainant's insurance services. This addition does not avoid the disputed domain name from being found confusingly similar to the Complainant's mark;
- the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent was operating a website which was a copy of the Complainant's website and establishes that the Respondent was trying to impersonate the Complainant. The Respondent was likely using an email address associated with the disputed domain name for the purpose of phishing or other financial fraud, that is for illegitimate financial gain. Moreover, there is no evidence that the Respondent has ever been known by the disputed domain name or that it has made a legitimate, noncommercial or fair use of it;
- the disputed domain name was registered and is being used in bad faith. Given the Complainant's significant reputation in its marks, it is inconceivable that the Respondent was unaware of the Complainant's business when registering the disputed domain name. This is further evidenced by the Respondent's copying of the Complainant's website. By its use of the disputed domain name the Respondent has used an identical sign to purport to offer services identical to those for which the Complainant's marks are used. Such activity is not a good faith use of the disputed domain name particularly as the Respondent could use email addresses associated with the disputed domain name for the purposes of phishing or other financial

fraud. The Respondent has therefore intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trade marks as to the source, affiliation, endorsement or control of the disputed domain name.

## **B. Respondent**

The Respondent did not serve a substantive reply to the Complainant's contentions. However, it sent two emails to the Center on June 21, 2024. The first email apologized for not complying with the deadline and asked for advice as to what it should do. The second email stated that, having considered the Complainant's allegations of bad faith, although there was no evidence that the Respondent was tarnishing "www.tempcover.com", and that its identical page may be used to deceive others and engage into fraudulent activity, the Respondent was taking down its website and any logos, branding and name associated with "www.tempcover.com".

## **6. Discussion and Findings**

Dealing, first, with the Respondent's failure to file a substantive response to the Complaint, paragraph 14(b) of the Rules provides that if a party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under, these Rules, the Panel shall be entitled to draw such inferences from this omission as it considers appropriate.

Paragraph 4(a) of the Policy provides that a complainant proves each of the following three elements in relation to a domain name in order to succeed in its complaint:

- (i) the domain name is identical or confusingly similar to a trade mark or service mark in which the complainant has rights; and
- (ii) the respondent has no rights or legitimate interests with respect to the domain name; and
- (iii) the domain name has been registered and is being used in bad faith.

### **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 trade mark and the disputed domain name; see 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 its TEMPCOVER mark for the purposes of the Policy; see the [WIPO Overview 3.0](#), section 1.2.1. As a technical requirement of registration, the generic Top-Level Domain ("gTLD"), that is ".com" in respect of the disputed domain name, is usually disregarded when assessing confusing similarity. The Complainant's TEMPCOVER mark is reproduced in its entirety within the disputed domain name and is clearly recognizable within it. The addition of the prefix "insurance" to the Complainant's mark does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's TEMPCOVER mark for the purposes of the Policy. In this respect, see [WIPO Overview 3.0](#), section 1.8, "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element".

For the above reasons, based on the available record, the Panel finds that 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 by which a respondent may demonstrate rights or legitimate interests in a domain name. Whilst 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 impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element; see [WIPO Overview 3.0](#), section 2.1.

Having reviewed the 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. In particular, the Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services; see [WIPO Overview 3.0](#), section 2.2.

The Panel deals first with the former use of the disputed domain name to resolve to a website identical to that of the Complainant, featuring links which directed Internet users to the Complainant’s website and using the Complainant’s TEMPCOVER marks. It was evidently the Respondent’s intention that Internet users familiar with the services of the Complainant who visited the Respondent’s website would believe that the Respondent’s website was that of the Complainant. Such deliberate deception cannot comprise a bona fide offering of goods and services. It is likely that the Respondent was using its copy of the Complainant’s website for an improper purpose, such as phishing or a similar activity. If this would be the case, previous UDRP panels have held that the use of a domain name for illegal activity, including phishing, distributing malware, impersonation/passing off, or other types of fraud, can never confer rights or legitimate interests on a respondent; see [WIPO Overview 3.0](#), section 2.13.1 and, by way of example, *Zions Bancorporation, N.A. v. George Gillespie*, WIPO Case No. [D2022-3197](#);

So far as the current, inactive status of the disputed domain name is concerned, the non-use of the disputed domain name does not comprise use in connection with a bona fide offering of goods and services.

- there is no evidence in the record that the Respondent has been commonly known by the disputed domain name; see [WIPO Overview 3.0](#), section 2.3;
- 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 trade mark or service mark at issue; see [WIPO Overview 3.0](#), section 2.4;
- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the disputed domain name.

For the above reasons, based on the available record, the Panel finds the second element of the Policy has been established.

## C. Registered and Used in Bad Faith

It is evident from the record that, very shortly after the Respondent’s registration of the disputed domain name in April 2024, it resolved to the form of the website described above. This suggests an awareness by the Respondent of the Complainant’s TEMPCOVER mark as at the date of registration of the disputed

domain name as well as an intention on its part to take unfair advantage of it. Registration of a domain name by an unconnected party with knowledge of a complainant's trade mark registration and where the domain name is put to a misleading use establishes bad faith; see, for example, *Boursorama S.A. v. Sergey Ivanov*, WIPO Case No. [D2022-4886](#). The Respondent's registration of the disputed domain name is accordingly in bad faith.

Paragraph 4(b) of the Policy sets out, without limitation, circumstances which, if found by a panel to be present, shall be evidence of the registration and use of a domain name in bad faith. The circumstance set out in paragraph 4(b)(iv) of the Policy is if a respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website, such conduct constitutes bad faith. The use to which the Respondent has previously put the disputed domain name falls within this circumstance because its website was plainly intended to mislead Internet users into believing that it was that of the Complainant. Such a belief will have been reinforced because of the confusing similarity between the disputed domain name and the Complainant's TEMPCOVER mark. There is no conceivable good faith reason as to why the Respondent would have created a copy of the Complainant's website and thereby confused Internet users into thinking it was that of the Complainant. See *ALH Group Pty Ltd v. Naveen Mathur*, WIPO Case No. [D2015-2004](#).

The fact that, in response to the Complaint, the Respondent has now removed its copy of the Complainant's website is of little or no significance. The Respondent's website, or another equally problematic website, could be reinstated at any point and the Respondent could, as the Complainant says, still use email addresses associated with the disputed domain name for the purpose of phishing or other online fraud. Neither these points, nor the Complainant's other contentions, are addressed at all by the Respondent in its brief emails to the Center except the Respondent stated there was no evidence of actual fraudulent activity.

Considering the composition of the disputed domain name makes it clear that the Complainant's mark is being targeted, the previous use of the disputed domain name, and the change of the use of the disputed domain name after commencement of the current proceeding, the Panel finds that the current non-use of the disputed domain name does not change the Panel's finding of the Respondent's bad faith.

Having reviewed the record, and for the reasons set out above, the Panel finds the Respondent's registration and use of the disputed domain name has been in bad faith.

## **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 <insurancetempcover.com> be transferred to the Complainant.

*/Antony Gold/*

**Antony Gold**

Sole Panelist

Date: July 11, 2024