

ADMINISTRATIVE PANEL DECISION

Tempcover Ltd v. Temp Cover

Case No. D2024-2060

1. The Parties

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

The Respondent is Temp Cover, UK.

2. The Domain Name and Registrar

The disputed domain name <tempcover.digital> (the “Disputed Domain Name”) 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 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 (Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 27, 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 31, 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 31, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 21, 2024.

The Center appointed Michael D. Cover 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 owns some well-known brands in the UK and Europe, including USwitch and Confused.com, whose services are used by millions of people each year to make home, insurance and financial services decisions.

The Complainant is the proprietor of various trademark registrations for its TEMPCOVER trademarks, as follows:

- UK trademark registration No. UK00003399923 for TEMPCOVER (logo) in Class 36 registered August 16, 2019; and
- UK trademark registration No. UK00002515637 for TEMPCOVER.COM in Class 36 registered December 4, 2009.

The Complainant launched in 2006 as Temporary Cover Limited and was rebranded as Tempcover.com in 2010 and has operated under the trademark TEMPCOVER since then. The Complainant provides flexible and relatively short-term car insurance. The Complainant became part of the RVU Group in 2022. The Complainant offers its insurance services from its website at “www.tempcover.com”, as well as in some of the UK’s price comparison websites, including USwitch, Compare the Market and money.co.uk. The Complainant also operates pages on various social media platforms, which feature the Complainant’s trademarks.

The Disputed Domain Name was registered on April 17, 2024. According to the evidence provided by the Complainant, it resolved to an apparent copycat website of the Complainant’s main website, displaying the Complainant’s trademark TEMPCOVER and logo.

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.

The Complainant states that the Complainant’s trademarks have been used extensively across the UK for nearly two decades in relation to the Complainant’s offer of short-term insurance and submits that, as a result of the widespread use of the Complainant’s trademarks, these trademarks have acquired a significant reputation amongst the UK public.

Identical or Confusingly Similar

The Complainant notes that the Disputed Domain Name consists of the term “Tempcover” and is therefore identical to the Complainant’s trademarks. The Complainant also notes that the Disputed Domain Name is registered in the Top-Level Domain (“TLD”) “.digital” and will be understood by consumers as indicating a place online where Internet users can go to purchases or obtain further information about the Complainant’s services.

The Complainant notes that it has been established in UDRP decisions that the addition of descriptive or generic indications to a third-party trademark does not avoid the Disputed Domain Name being confusingly similar to the third party trademark. The Complainant cites in support certain UDRP decisions, including *Valero Energy Corporation and Valero Marketing and Supply Company v. Valero Energy*, WIPO Case No. [D2017-0075](#). The Complainant also notes that it has been established in previous UDRP panel decisions that the TLD is irrelevant to the determination of confusing similarity under the UDRP, since the TLD is a requirement of a domain name registration. In this instance, submits the Complainant, since “digital” will be understood by consumers as indicating that the Complainant’s services are provided online, the TLD reinforces the confusing similarity.

The Complainant therefore concludes that the Disputed Domain Name is confusingly similar to the Complainant’s trademarks and paragraph 4(a)(i) of the Policy is satisfied.

Rights and Legitimate Interests

The Complainant notes that the Disputed Domain Name resolves to a website, which uses a style sheet, which is an identical copy of the Complainant’s website. The Complainant notes that the website at the Disputed Domain Name uses the Complainant’s trademark in the top left-hand corner of the page and uses identical images to those used on the Complainant’s website and that when links are clicked on the homepage of the website to which the Disputed Domain Name resolves, will redirect to the Complainant’s website. The Complainant further states that this website uses the Complainant’s genuine website, address, registered company number and Financial Conduct Authority regulation number in the footer.

The Complainant goes on to submit that the use of the Complainant’s trademark on the website to which the Disputed Domain Name resolves is not authorized by the Complainant.

The Complainant continues by submitting that there is no evidence that the Respondent has ever used or made preparation to use the Disputed Domain Name or the name “Tempcover” in connection with a legitimate business or that it has otherwise been known by the Disputed Domain Name and that, rather the Respondent is trying to impersonate the Complainant by using the Disputed Domain Name to resolve to a website which mimics the Complainant’s website.

The Complainant submits that it is clear 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 reputation that exists in the Complainant’s trademarks.

On the basis of its submissions, the Complainant submits that, on the balance of probabilities, the Respondent does not have a legitimate interest or right in the Disputed Domain Name and paragraph 4(a)(ii) of the Policy is satisfied.

Registered and Used in Bad Faith

The Complainant submits that the use of the Disputed Domain Name that has taken place to resolve to a website which is an identical copy of the website is clearly done to impersonate the Complainant and to deceive consumers into thinking that the Disputed Domain Name is operated or connected to the Complainant. The Complainant also submits that the use of signs identical to the Complainant’s trademark throughout that website to offer services identical to those for which the Complainant’s trademarks are used and have a significant reputation will obviously result in confusion on the part of Internet users.

The Complainant submits the above activity is not good faith use of the Disputed Domain Name and is very likely to divert actual or prospective customers of the Complainant’s business away and that this is likely to tarnish the reputation that exists in the Complainant’s trademarks. The Complainant then refers to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 3.1.4, which, says the Complainant clearly indicates that the use of a domain name to redirect to the genuine website can establish bad faith.

The Complainant states that, given the Complainant's trademarks, it is inconceivable that the Respondent was unaware of the Complainant's business when registering the Disputed Domain Name.

The Complainant concludes that, by using the Disputed Domain Name, the Respondent has therefore intentionally attempted to attract, for commercial gain, Internet users to the relevant website by creating a likelihood of confusion with the Complainant's trademarks, as to the source of, affiliation, endorsement or control of that website.

The Complainant submits that the Disputed Domain Name has therefore been registered and is being used in bad faith and therefore falls under Paragraph 4(a)(iii) of the Policy.

The Remedy requested by the Complainant

In accordance with Paragraph 4(i) of the Policy, for the reasons described in the Complaint, the Complainant requests the Panel to decide that the Disputed Domain Name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

The Complainant must establish on the balance of probabilities that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; that the Respondent has no rights or legitimate interests in the Disputed Domain Name; and that the Disputed 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 trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

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 entirety of the mark is reproduced within the Disputed Domain Name. Accordingly, the Disputed Domain Name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds that the applicable TLD ".digital" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds the first element of the Policy has been established and that the Disputed Domain Name is identical to the Complainant's TEMPCOVER trademark, in which it has rights.

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.

Panels have held that the use of a domain name for illegal activity, as in the case, impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. There is no evidence that the use of the Complainant's trademark in the Disputed Domain Name has been authorized by the Complainant. Such use as has taken place of the Disputed Domain Name, resolving to a website that features the Complainant's TEMPCOVER trademarks and mimics the Complainant's website does not constitute legitimate or fair noncommercial use. In addition, although the Respondent's name is reflected in the Disputed Domain Name, there is no evidence on record showing that the Respondent has been commonly known by the Disputed Domain Name.

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 has intentionally attempted to attract for commercial gain Internet users by creating a likelihood of confusion with the Complainant's TEMPCOVER trademark and that, hence, the Disputed Domain Name has been registered and is being used in bad faith. It is a reasonable inference that the Respondent knew of the well-known TEMPCOVER trademark, when registering the Disputed Domain Name.

Further, panels have held that the use of a domain name for illegal activity here, claimed impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

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 <tempcover.digital> be transferred to the Complainant.

/Michael D. Cover/

Michael D. Cover

Sole Panelist

Date: July 11, 2024