

ADMINISTRATIVE PANEL DECISION

Public Broadcasting Service v. Domain Admin, TotalDomain Privacy Ltd Case No. D2024-2490

1. The Parties

The Complainant is Public Broadcasting Service, United States of America (“United States”), represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Domain Admin, TotalDomain Privacy Ltd, Panama.

2. The Domain Name and Registrar

The disputed domain name <pbsnews.org> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 17, 2024. On June 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 20, 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, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 20, 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 June 20, 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 June 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 17, 2024.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on July 30, 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 Public Broadcasting Service (PBS), a private, nonprofit corporation, founded in the year 1969, whose members are America's public television stations - noncommercial, educational licensees that operate more than 330 PBS member stations and serve all the United States.

The Complainant provides its member stations with programming in cultural, educational, and scientific areas, in children's fare, and in news and public affairs but does not itself produce programs; the programs are produced by the member stations, independent producers, and other program producers worldwide. The Complainant's programs include series like Sesame Street or Mister Rogers' Neighborhood.

The Complainant also has been broadcasting since 1975 the program PBS NewsHour. PBS NewsHour is an American evening television news program featuring the latest news, analysis, field reports from around the world, live studio interviews and discussions. The show began in 1975 as The Robert MacNeil Report before being renamed The MacNeil/Lehrer Report. In 1983, the show was rebranded as The MacNeil/Lehrer NewsHour, and then The NewsHour with Jim Lehrer following MacNeil's departure in 1995. It was then renamed to its current PBS NewsHour title in 2009, two years before Lehrer left in 2011. Originally, the program only aired on weekdays before weekend editions began in 2013. Today, PBS NewsHour is broadcast by more than 330 PBS member stations, reaching 98 percent of the American television households.

According to the Complainant, the PBS NewsHour website (available at "<https://www.pbs.org/newshour/>") has won high marks for original reporting, interactive forums and substantive news coverage on the Internet. The PBS NewsHour website in 2020 averaged more than 7.5 million unique visitors a month. In addition, PBS NewsHour's has over 4 million subscribers on YouTube, more than 2 million followers on Facebook and more than 1 million followers on Twitter (now X).

The Complainant is the owner of trademark registrations across various jurisdictions for PBS, including the following:

- United States: 1247905, registered on August 9, 1983
- Canada: TMA769103, registered on July 29, 2009
- United Kingdom: UK00910190122, registered on February 1, 2012
- European Union: 010190122, registered on February 1, 2012

The Complainant's website operates at the domain name <pbs.org>.

The disputed domain name was registered on April 29, 2004. The disputed domain name resolves to a website which contains pay per click links and a legend on the website stating "The domain pbsnews.org is for sale. Click here to inquire about this domain". The link resolves to a website where anyone can post an offer for the disputed domain 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.

According to the Complainant, each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case.

First, the Complainant submits that the disputed domain name is identical or confusingly similar to the trademark registrations of the Complainant.

Second, the Complainant argues that the Respondent has neither rights nor legitimate interests in the disputed domain name.

Third, the Complainant submits that the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that a complainant must prove each of the following elements with respect to each disputed domain name:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The burden of proof of each element is borne by the Complainant. The Respondent's default does not by itself mean that the Complainant is deemed to have prevailed. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), [WIPO Overview 3.0](#), section 4.3.

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 confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here "news", may bear on 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 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 Panel finds the disputed domain name carries a risk of implied affiliation with the Complainant. The composition of the disputed domain name, comprising the Complainant’s trademark in its entirety and the addition of the term “news” related to one specific and well-known program of the Complainant creates a risk of Internet user confusion.

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 and its PBS trademarks are known internationally, with trademark registrations across numerous countries.
- the Complainant has marketed and sold its services using the PBS trademark since 1969, which is well before Respondent’s registration of the disputed domain name.
- the Respondent registered the disputed domain name on April 29, 2004.
- the Respondent registered a domain name containing the PBS trademark of the Complainant with the term “news”. The additional term “news” is closely associated with the Complainant’s services and a specific news program called “PBS NewsHour”. Thus, by registering a domain name that incorporates Complainant’s trademark with the addition of the associated term “news”, the Respondent has created a domain name that is confusingly similar to the Complainant’s trademark, as well as its <pbs.org> domain name. As such, the Respondent has demonstrated a knowledge of and familiarity with the Complainant’s brand and business.
- the Respondent is in default.

In light of these facts, the Panel concludes that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its web site or other on-line location, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s web site or location or of a product or service on the Respondent’s web site or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

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 <pbsnews.org> be transferred to the Complainant.

/Pablo A. Palazzi/

Pablo A. Palazzi

Sole Panelist

Date: August 13, 2024