

ADMINISTRATIVE PANEL DECISION

Phoenix Group Management Services Limited v. Zahar Mandidalaew
Case No. D2024-2855

1. The Parties

The Complainant is Phoenix Group Management Services Limited, United Kingdom (“UK”), represented by Freeths LLP, UK.

The Respondent is Zahar Mandidalaew, UK.

2. The Domain Name and Registrar

The disputed domain name <britannic-finance.com> is registered with CloudFlare, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 12, 2024. On July 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 16, 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 (Registration Private) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 16, 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 July 17, 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 July 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 8, 2024.

The Center appointed Ian Blackshaw as the sole panelist in this matter on August 15, 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 the UK's largest long-term savings and retirement business, servicing 12 million customers under their pensions, savings, and life insurance brands, including the BRITANNIC brand.

The Complainant is also the proprietor of UK and European Union trademark registrations for the word BRITANNIC, including UK Trademark No. UK00902027951, registered in 2002. Details of the Complainant's registrations for the BRITANNIC trademarks have been provided to the Panel.

The Complainant has spent a significant amount of time, money and effort to develop and protect the BRITANNIC trademarks and the Complainant has generated and enjoys enormous goodwill and reputation in them in relation to financial services.

The Complainant has also made substantial and sustained use of the BRITANNIC trademarks.

The disputed domain name was registered on November 23, 2023. According to the evidence provided by the Complainant, the Respondent has used an email address "[...].@britannic-finance.com" in a finance scam.

5. Parties' Contentions

A. Complainant

The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The disputed domain name includes the word "Britannic" which is identical to the subject of the Complainant's BRITANNIC trademarks.

The disputed domain name also incorporates the word "finance" which is associated with the services that the Complainant offers under the BRITANNIC trademarks.

The similarity between the disputed domain name and the Complainant's BRITANNIC trademarks is such that Internet users will be confused into believing that the disputed domain name is registered to the Respondent, or at least, operated, authorized, or endorsed by the Complainant, which is not the case.

Accordingly, on an overall comparison, the disputed domain name is confusingly similar to the Complainant's BRITANNIC trademarks.

Furthermore, the disputed domain name appears to have been used in a fraudulent scheme as mentioned below.

The Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant's rights in the BRITANNIC trademarks predate the Respondent's registration of the disputed domain name on November 23, 2023.

The Complainant has not licensed or otherwise authorized the Respondent to use the BRITANNIC trademarks.

The Respondent, therefore, has no rights or legitimate interests in the disputed domain name, nor any rights in the BRITANNIC trademarks, and is not associated or connected with the Complainant whatsoever.

The disputed domain name was registered and is being used in bad faith.

As already stated, the disputed domain name makes unauthorized use of a sign confusingly similar to the Complainant's registered BRITANNIC trademarks, in direct contravention of the Complainant's rights in them.

As stated above, it is inevitable that Internet users will be confused into believing that the disputed domain name has some form of association with the Complainant. The registration of the disputed domain name, therefore, takes unfair advantage of the Complainant's rights. On this basis alone, the Complainant considers the registration of the disputed domain name to be in bad faith.

In addition, the Complainant has been made aware that an email address associated with the disputed domain name is being used in a fraudulent manner. It is clear that the disputed domain name has been registered and is being used to interfere with the Complainant's legitimate business. An email address associated with the disputed domain name "[...@britannic-finance.com]", along with the Complainant's address, have been held out as legitimate contact details of the purported "Britannic Finance" company in relation to what appears to be a financial scam. Details of an email exchange between a victim, who appears to have been defrauded of a large sum of money, and the purported "Britannic Finance" company have been provided to the Panel.

Such customer confusion, as mentioned above, is damaging to the reputation and commercial activities of the Complainant. Confused consumers will have a negative perception of the Complainant should there be a negative impact on their finances. Even if a consumer perceives something amiss before taking action in relation to the disputed domain name, the distinctive character and reputation of the Complainant's BRITANNIC trademarks are harmed by association in any event. In all these circumstances, there is a detrimental impact on the reputation and commercial activities of the Complainant.

B. Respondent

The Respondent, having been duly notified of the Complaint and of these proceedings, did not reply to the Complainant's contentions or take any part in these proceedings.

6. Discussion and Findings

To qualify for cancellation or transfer of the disputed domain name, the Complainant must prove each of the following elements of paragraph 4(a) of the Policy, namely:

- (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.

In accordance with paragraph 15(a) of the Rules, the Panel shall decide the Complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable.

In accordance with paragraph 14(a) of the Rules, in the event that a party, in the absence of exceptional circumstances, does not comply with any of the time periods established by the Rules or the Panel, the Panel shall proceed to a decision on the Complaint; and under paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules or any request from the Panel, the Panel shall draw such inferences as it considers appropriate.

In accordance with paragraph 10(d) of the Rules, the Panel shall determine the admissibility, relevance, materiality and weight of the evidence.

In previous UDRP decisions in which the respondents failed to file a response, the panels' decisions were based upon the complainants' reasonable assertions and evidence, as well as inferences drawn from the respondents' failure to reply. See *The Vanguard Group, Inc. v. Lorna Kang*, WIPO Case No. [D2002-1064](#); and *Köstritzer Schwarzbierbrauerei v. Macros-Telekom Corp.*, WIPO Case No. [D2001-0936](#).

Nevertheless, the Panel must not decide in the Complainant's favor solely based on the Respondent's default. See *Cortefiel, S.A. v. Miguel García Quintas*, WIPO Case No. [D2000-0140](#).

In the present case, the Panel must decide whether the Complainant has introduced elements of proof, which allow the Panel to conclude that its allegations are true.

A. Identical or Confusingly Similar

It is well established in previous UDRP decisions that, where the disputed domain name incorporates a complainant's registered trademark, this may be sufficient to establish that the disputed domain name is identical or confusingly similar for the purposes of the Policy. See *Magnum Piering, Inc. v. The Mudjacks and Garwood S. Wilson, Sr.*, WIPO Case No. [D2000-1525](#). In the present case, the disputed domain name incorporates the entirety of the Complainant's BRITANNIC trademarks, and this makes the disputed domain name confusingly similar to the well-known and widely used Complainant's BRITANNIC trademarks.

The addition of a hyphen and the word "finance" in the disputed domain name does not prevent a finding of confusing similarity between the Complainant's Trademarks and the disputed domain name. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

In view of the above, the Panel finds that the disputed domain name is confusingly similar to the well-known and widely used Complainant's BRITANNIC trademarks, in which the Complainant has rights. The first element of the Policy, therefore, has been met.

B. Rights or Legitimate Interests

In order to determine whether the Respondent has any rights or legitimate interests in respect of the disputed domain name (paragraph 4(c) of the Policy), attention must be paid to any of the following circumstances, in particular, but without limitation:

- whether there is any evidence of the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services before any notice to the Respondent of the dispute;
- whether the Respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, even if the Respondent has acquired no trademark or service mark rights;
- whether the Respondent is 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.

There is no evidence before the Panel to show that the Respondent was acting in pursuance of any rights or legitimate interests with respect to the disputed domain name. On the contrary, if the Respondent had any such rights or legitimate interests, the Respondent would have reasonably been expected to assert them, which the Respondent clearly has not done so, by not replying to the Complaint or taking any part in these proceedings. See *Belupo d.d. v. WACHEM d.o.o.*, WIPO Case No. [D2004-0110](#). 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. [WIPO Overview 3.0](#), section 2.1.

There is also no evidence before the Panel that the Respondent has been authorized or licensed by the Complainant to use the well-known and widely used Complainant's BRITANNIC trademarks. In fact, in the view of the Panel, the adoption by the Respondent of a domain name confusingly similar to the well-known and widely used Complainant's BRITANNIC trademarks, which the Panel considers would appear not to be by mere chance but by design, inevitably leads to confusion on the part of Internet users and consumers seeking information about the Complainant and its services.

In fact, in the view of the Panel, the composition of the disputed domain name carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Further, the Panel finds that the Respondent is consequentially trading unfairly on the well-known and widely-used the Complainant's BRITANNIC trademarks and also the valuable goodwill that the Complainant has established in them through the Complainant's prior commercial use, without any rights or justification for doing so. Panels have held that the use of a domain name for illegal activity here, claimed phishing, 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.

Also, the Panel finds no evidence that the Respondent has used or undertaken any demonstrable preparations to use the disputed domain name in connection with any bona fide offering of goods or services.

Therefore, for all the above reasons, the Panel concludes that the Respondent has neither rights nor legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

Regarding the bad faith requirement, paragraph 4(b) of the Policy lists four examples of acts, which constitute prima facie evidence of bad faith. However, this list is not exhaustive, but merely illustrative. See *Nova Banka v. Iris*, WIPO Case No. [D2003-0366](#).

Based on the evidence provided on the record, the Panel considers that the Respondent, by registering the disputed domain name confusingly similar to the well-known and widely used Complainant's BRITANNIC Trademarks, is trading unfairly on the Complainant's valuable goodwill established in them.

Also, the effect of such conduct on the part of the Respondent is to mislead Internet users and consumers into thinking that the Respondent is, in some way or another, connected to, sponsored by, or affiliated with the Complainant and its services; or that the Respondent's activities are approved or endorsed by the Complainant. None of which the Panel can find, on the basis of the evidence provided on the record, is, in fact, the situation. Such misleading consequences, in the view of the Panel, are indicative of bad faith on the part of the Respondent. See *Columbia Insurance Company v. Pampered Gourmet*, WIPO Case No. [D2004-0649](#).

Furthermore, the financial scam involving the email address “[...]@britannic-finance.com” mentioned and evidenced above by the Complainant, in the view of the Panel, provides a further indication of bad faith on the part of the Respondent. [WIPO Overview 3.0](#), section 3.4.

Finally, the failure of the Respondent to answer the Complaint or take any part in the present proceedings, again, in the view of the Panel and under the circumstance of this case, is another indication of bad faith on the part of the Respondent. See *Bayerische Motoren Werke AG v. (This Domain is For Sale) Joshuathan Investments, Inc.*, WIPO Case No. [D2002-0787](#).

Therefore, taking all these particular facts and circumstances into account, and for all the above-mentioned reasons, the Panel concludes that the Respondent has registered and is using the disputed domain name 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 <britannic-finance.com> be transferred to the Complainant.

/Ian Blackshaw/

Ian Blackshaw

Sole Panelist

Date: August 16, 2024