

ADMINISTRATIVE PANEL DECISION

Carbonteam S.r.l. v. Philip Ishmeal, Philsroll
Case No. D2024-2940

1. The Parties

The Complainant is Carbonteam S.r.l., Italy, represented by Saglietti Bianco, Italy.

The Respondent is Philip Ishmeal, Philsroll, Greece.

2. The Domain Name and Registrar

The disputed domain name <carbonteam-pt.com> is registered with PSI-USA, Inc. dba Domain Robot (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 18, 2024. On July 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 19, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. The Center sent an email communication to the Complainant on July 29, 2024, requesting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on August 2, 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 August 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 27, 2024.

The Center appointed Mladen Vukmir as the sole panelist in this matter on September 6, 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 an Italian production company known in the industrial, bicycles, automotive, medical, robotics, design and aerospace fields.

The Complainant is the owner of multiple registered CARBONTEAM trademarks (“CARBONTEAM trademarks”), including: CARBONTEAM figurative International trademark designating European Union and Switzerland registered on April 1, 2022, under the registration number 1675040 for goods in classes 1, 10, 12 and 17, CARBONTEAM figurative trademark registered in Austria on February 17, 2023, under the registration number 321953 for goods in classes 1, 7, 10, 12, 17 and services in class 42, and CARBONTEAM figurative trademark registered in Germany on February 1, 2023, under the registration number 3020221200414 for goods in classes 1, 7, 10, 12, 17 and the services in class 42.

The Complainant operates its official website under the domain name <carbonteam.it> since July 19, 2007.

The disputed domain name, which was registered on August 20, 2023, does not resolve to any active website but instead, when typed in the browser, shows a page saying that it is “unable to reach the 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:

(i) It is the owner of several CARBONTEAM registered trademarks, and it has rights on an unregistered CARBONTEAM mark since 2007 at least in Italy, seeing as it is a part of the Complainant’s company trade name “Carbonteam S.r.l.”, which has been registered on July 7, 2007. Since that date, the Complainant has been using CARBONTEAM trademark across the European Union. The Complainant states that since 2007 it has been using CARBONTEAM trademark on the market and has acquired goodwill in the industrial, bicycles, automotive, medical, robotics, design and aerospace fields. CARBONTEAM trademark has been repeatedly mentioned in various newspaper and magazine articles and is present on social media since 2014;

(ii) The disputed domain name is identical or confusingly similar to the Complainant’s registered and unregistered CARBONTEAM trademark, as well as to its registered domain name. Namely, the disputed domain name contains the entirety of the Complainant’s trademark with the addition of term “-pt” as a suffix. For this reason, the disputed domain name leads the public to think that it is directly connected to the Complainant;

(iii) the Respondent has no rights nor legitimate interests in respect of the disputed domain name. The Respondent has no trademark, trade name or business corresponding to the disputed domain name and is in no way associated with the disputed domain name. Additionally, the Respondent has no connection or affiliation with the Complainant and has not received any license or consent for the use the disputed domain name in connection with its trademarks. Furthermore, there is no evidence that the Respondent used or plans to use the disputed domain name in connection with a bona fide offering of goods or services. Finally, the Respondent has not been and is not known under the disputed domain name; and

(iv) the Respondent has registered and is using the disputed domain name in bad faith. The dispute domain name does not resolve to any website, and the Respondent has no interest in the disputed domain name. The Respondent has taken actions to deliberately hide its true identity so it could not be determined. Having in mind the distinctiveness and reputation of the Complainant’s mark, it is evident that the disputed domain name has been used in bad faith, with the Respondent’s primary and only purpose to disrupt the Complainant’s business.

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.

The Complainant has shown rights in respect of a trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Complainant CARBONTEAM trademark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Complainant CARBONTEAM trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here "-pt", 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 generic Top-Level Domain ".com" is a standard registration requirement and as such may be 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.

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 Respondent is not authorized by the Complainant to use CARBONTEAM trademarks, and there is no indication that the Respondent is known under the disputed domain name. There is no apparent relation from the records between the Respondent and the Complainant, nor does it arise that the Complainant has ever licensed or otherwise permitted the Respondent to use its CARBONTEAM trademarks, or to apply for or use any domain name incorporating the same trademark.

There is no evidence or otherwise apparent to the Panel that the Respondent has been using the disputed domain name in connection with a bona fide offering of goods or services or making a legitimate noncommercial or fair use of the disputed domain name. The Respondent has failed to provide any reply to the Complaint, and accordingly failed to prove that it has rights or legitimate interests in 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 notes that the disputed domain name resolves to an inactive webpage, containing only the message “unable to reach the website”.

The Panel is of the opinion that it is more likely than not that the Respondent registered and used the disputed domain name being aware of the Complainant and its known CARBONTEAM trademark.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel draws adverse inferences from the Respondent’s failure to take part in the present proceeding where an explanation is certainly called for ([WIPO Overview 3.0](#), section 4.3).

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 <carbonteam-pt.com> be transferred to the Complainant.

/Mladen Vukmir/

Mladen Vukmir

Sole Panelist

Date: September 20, 2024