

ADMINISTRATIVE PANEL DECISION

Construction Skills Certification Scheme Limited v. Arunn Bansal, MJ
Marketing Solution
Case No. D2024-2952

1. The Parties

The Complainant is Construction Skills Certification Scheme Limited, United Kingdom (“UK”), represented by Wedlake Bell, UK.

The Respondent is Arunn Bansal, MJ Marketing Solution, India.

2. The Domain Name and Registrar

The disputed domain name <applycscscardonline.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 19, 2024. On July 19, 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 disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (C/O DomainsByProxy.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 22, 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 July 29, 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 July 31, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 20, 2024. The Respondent sent an email communication to the Center on August 3, 2024. Pursuant to paragraph 6 of the Rules, the Center informed the Parties of the commencement of the panel appointment process on August 21, 2024.

The Center appointed Mladen Vukmir as the sole panelist in this matter on August 26, 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 a private limited liability company incorporated in England on February 21, 1995, having registered office in London, UK. The Construction Skills Certification Scheme (the “Scheme”) has been managed by the Complainant from 1995 to May 31, 2024, and thereafter by CSCS Cards Limited under license from the Complainant. The Scheme assesses and certifies workers in the UK construction industry for occupation competency and health and safety awareness. Where those workers meet the required standards, including passing the relevant test, they are issued with a “CSCS card” as proof of that competency and awareness.

The Complainant is the owner of registered CSCS word trademark registered in UK on November 20, 2009, under the registration number UK00002520953 for goods and services in classes 9, 16, and 35 of International Classification (“IC”); CSCS figurative trademark registered in UK on January 26, 2001, under the registration number UK00002190060 for services in class 41 of International Classification; CSCS word trademark registered in European Union on November 4, 2009, under the registration number 006347868 for goods and services in classes 9, 16, 35, and 37 (“CSCS trademark”).

The Complainant is the registrant of several domain names incorporating the Complainant’s CSCS trademark, like <cscs-tests.co.uk>, <cscscard.org>, and <cscs-solutions.co.uk>, etc.

The Complainant has sent to the Respondent two warning letters, and tried to contact him through the Registrar’s website, but received no response.

The disputed domain name was registered on September 6, 2020, and it resolves to a website offering various courses on software solutions. Earlier, the website created under the disputed domain name contained the Complainant’s CSCS trademark and “CSCS cards” image in an alleged offering of educational courses.

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 Scheme is well known and has always been operated under and by reference to CSCS trademark. The Scheme has enjoyed considerable success since it was first set up and has become the industry-standard competency card scheme for many hundreds of occupations in the UK construction industry. At present, over 1.8 million CSCS cards are in circulation, and the Complainant’s website which is currently under the management of CSCS Cards Limited, receives over 150,000 different visitors each month. The Complainant has built up substantial goodwill and reputation both within the UK and internationally by reference to the brand CSCS.

The disputed domain name is confusingly similar to the Complainant’s CSCS trademark, as it consists of the acronym CSCS in the addition to non-distinctive words “apply”, “card”, and “online”. The incorporation of the Complainant CSCS trademark in its entirety will only lead to confusion.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has no connection with the Complainant or any licensee of the Complainant. The Respondent neither has, nor has it ever had, any authority from the Complainant of any kind to use the Complainant's CSCS trademark. The Respondent was not authorised by the Complainant to register, hold or use the disputed domain name.

The disputed domain name was registered and is being used in bad faith. The Respondent was notified of the fraudulent use of the disputed domain name but chose to keep the disputed domain name as a deliberate reference to the Complainant, in order to create an impression of association with the Complainant. The Complainant states that the Respondent intentionally kept and updated the disputed domain name to strengthen the association with the Complainant and its services for the purpose of directing Internet users to the Respondent's website connected to the disputed domain name although the Respondent's website no longer reflects connected services. The unauthorized use of word "cscs" in the disputed domain name constitutes infringement of the Complainant's CSCS trademark and the tort of passing off. The Respondent's ongoing unauthorized use of "cscs" in the disputed domain name gives an incorrect impression to the viewers of the Respondent's website that the Respondent is connected to the Complainant and/or proprietor of the Scheme. The Respondent's use of the disputed domain name is unfairly detrimental to third parties as it diverts web traffic from persons that are also offering services connected with the Scheme but are respecting the Complainant's rights. The Complainant states that the Respondent is using the disputed domain name intentionally to attract, for commercial gain, Internet users to the Respondent's website or other online location by creating a likelihood of confusion with the Complainant's marks.

B. Respondent

The Respondent did not reply to the Complainant's contentions. However, the Respondent has sent an email communication to the Center on August 3, 2024. In his email the Respondent stated that as the trademark issue arises on the disputed domain name, he will not continue with the disputed domain name in future.

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 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 "apply", "card", and "online" may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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 has no connection with the Complainant or any licence from the Complainant. The Respondent neither has, nor has it ever had, any authority from the Complainant of any kind to use the Complainant’s CSCS trademark. The Respondent was not authorised by the Complainant to register, hold or use the disputed domain name.

There is no evidence in the case file 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 non-commercial or fair use of the disputed domain name. The Respondent has failed to provide any reply to the Complaint, and accordingly failed to rebut the Complainant’s showing that the Respondent has no rights or legitimate interests in the disputed domain name.

The nature of the disputed domain name, comprising the Complainant’s CSCS trademark and additional related terms “apply”, “card”, and “online”, as well as earlier unauthorized use of the Complainant’s CSCS trademark, wording, and images of “CSCS card” on the content of the website indicate an awareness of the Complainant and its CSCS trademark, and creates a risk of implied affiliation or association with the Complainant, which does not support a finding of any rights or legitimate interests in this case. [WIPO Overview 3.0](#), section 2.5.1.

Panels have held that the use of a domain name for illegal activity (here passing off) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 Respondent has registered and used the disputed domain name to create a website offering various courses. The website created under the disputed domain name earlier contained the Complainant’s CSCS trademark, and “CSCS card” image. The Respondent’s ongoing unauthorized use of “cscs” in the disputed domain name gives an incorrect impression to the viewers of the Respondent’s website that the Respondent is connected to the Complainant and/or proprietor of the Scheme.

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.

This Panel accepts that the Complainant's CSCS trademark is distinctive, well-known, and that it is highly unlikely that the Respondent was unaware of the Complainant and its CSCS trademark when it registered the disputed domain name, particularly when considering the use to which the disputed domain name was put (a website displaying the Complainant's CSCS trademark and "CSCS Card" image).

Incorporation of a well-known trademark in a domain name having no plausible explanation for doing so is in itself an indication of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

Moreover, in earlier UDPR decisions panels have found that the respondents who fail to search and/or screen registrations against available databases would be responsible for any resulting abusive registrations under the concept of wilful blindness. [WIPO Overview 3.0](#), section 3.2.3.

In this Panel's view, by registering the disputed domain name that contains the Complainant's CSCS trademark, the Respondent is attempting to take advantage of the Complainant's reputation, and well-known trademark. Moreover, the disputed domain name seeks to impersonate the Complainant in an alleged commercial offering of discounted educational courses, reflecting the Respondent's intent for commercial gain by intentionally attempting to attract 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 the disputed domain name.

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

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <applycscscardonline.com> be transferred to the Complainant.

/Mladen Vukmir/

Mladen Vukmir

Sole Panelist

Date: September 9, 2024