

ADMINISTRATIVE PANEL DECISION

Carrier Corporation v. Huang Hui
Case No. D2024-3052

1. The Parties

Complainant is Carrier Corporation, United States of America (“United States”), represented by Cantor Colburn LLP, United States.

Respondent is Huang Hui, United States.

2. The Domain Name and Registrar

The disputed domain name <carrier-air-conditioner.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 25, 2024. On July 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 26, 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, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on July 31, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on July 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 Respondent of the Complaint, and the proceedings commenced on August 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 28, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 29, 2024.

The Center appointed Scott R. Austin as the sole panelist in this matter on September 3, 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

Without contest by Respondent, Complainant asserts in its Complaint and its Annexes attached provide evidence sufficient to support that:

Complainant is a global leader in intelligent climate and energy solutions which since 1916 has provided heating, ventilation, and air conditioning (“HVAC”), refrigeration, and fire & security products and services under the trademark CARRIER (the “CARRIER Mark”).

Complainant is also the registrant of numerous domain names that contain or are similar to the CARRIER Mark, including <carrier.com>, created on December 20, 1995, used to access its official website located at “www.carrier.com” (the “Official CARRIER Mark Website”) which provides information about Complainant’s heating and cooling products and services and features the CARRIER Mark throughout.

Complainant asserts that it owns numerous registrations worldwide for trademarks that consist of or contain the CARRIER Mark, including:

- United States Trademark Registration No. 2,094,163, CARRIER, registered on September 9, 1997, for “a range of heating, refrigerating, ventilating and air conditioning products” in International Class 11 and claiming a first use date of January 1, 1916;
- United States Trademark Registration No. 1,712,227, CARRIER, registered on September 1, 1992, for “installation, maintenance and repair of air conditioning and refrigeration equipment” in International Class 37 and claiming a first use date of April 1, 1962;
- Australian Trademark Registration No. 65544, CARRIER, registered on March 5, 1935, for “use in connection with a range of heating, refrigerating, ventilating and air conditioning products” in International Class 11; and
- Finland Trademark Registration No. 17389, CARRIER, registered on November 20, 1939, for “use in connection with a range of heating and air conditioning products” in International Classes 7, 9, and 11.

The disputed domain name was registered on March 16, 2023, and resolves to a “parked” website comprising pornographic pay-per-click links to websites featuring adult content by which Respondent purportedly earns revenue.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name. Complainant contends that the disputed domain name is identical or confusingly similar to Complainant’s trademark, that Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

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

The onus is on Complainant to make out its case and it is apparent from the terms of the Policy that Complainant must show that all three elements set out in paragraph 4(a) of the Policy have been established before any order can be made to transfer a domain name. As the proceedings are administrative, the standard of proof under the Policy is often expressed as the “balance of the probabilities” or “preponderance of the evidence” standard. Under this standard, an asserting party needs to establish that it is more likely than not that the claimed fact is true. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 4.2.

Thus, for Complainant to succeed it must prove within the meaning of paragraph 4(a) of the Policy and on the balance of the probabilities that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) 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 Panel finds that Complainant has met its burden in all three elements of the Policy and will deal with each of these elements in more detail below.

A. Identical or Confusingly Similar

To prove this element, Complainant must have trade or service mark rights, and the disputed domain name must be identical or confusingly similar to Complainant’s trade or service mark.

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Moreover, “[n]oting in particular the global nature of the Internet and Domain Name System, the jurisdiction(s) where the trademark is valid is not considered relevant to panel assessment under the first element. [...] the filing/priority date, date of registration, and date of claimed first use, are not considered relevant to the first element test. These factors may however bear on a panel’s further substantive determination under the second and third elements”. [WIPO Overview 3.0](#), section 1.1.2.

Based upon the numerous trademark registrations cited by Complainant, as well as supporting documents, the Panel finds that Complainant has established trademark rights in and to its CARRIER Mark.

Having met its burden for established trademark rights in the CARRIER Mark, Complainant next contends that the disputed domain name is identical or confusingly similar to Complainant’s CARRIER Mark because the dominant part of the disputed domain name comprises the term “carrier”, identical to the CARRIER Mark, registered by Complainant as its official domain name and as a trademark in numerous countries all over the world.

[WIPO Overview 3.0](#) Section 1.7 provides: “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.”

Prior UDRP panels have held the fact that a domain name wholly incorporates a complainant’s registered mark is sufficient to establish identity or confusing similarity for purposes of the Policy despite the addition of other words to such marks. [WIPO Overview 3.0](#), section 1.8 (“Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element”); see

also *BNP Paribas v. Ronan Laster*, WIPO Case No. [D2017-2167](#); *Compagnie Gervais Danone v. DomainPark Limited*, WIPO Case No. [D2008-0587](#); and *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#).

The disputed domain name incorporates Complainant's CARRIER Mark in its entirety and with a hyphen attaches the term "air-conditioner". Respondent's appending this term to Complainant's CARRIER Mark does not prevent a finding of confusing similarity for the reasons stated in the UDRP decisions cited above. The addition of the Top-Level Domain ("TLD"), ".com" in this case, 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; see also *Research in Motion Limited v. thamer Ahmed Alfarshooti*, WIPO Case No. [D2012-1146](#).

Complainant's CARRIER Mark remains fully recognizable as incorporated in its entirety into the disputed domain name. Accordingly, the Panel finds the disputed domain name is confusingly similar to the CARRIER Mark in which Complainant has rights and Complainant has thus satisfied its burden under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which 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 perplexing 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. See also, *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Respondent here has failed to appear to present any evidence of its rights or legitimate interests in the disputed domain name.

The Panel finds that Complainant has established a prima facie case that Respondent has no rights or legitimate interests in the disputed domain name.

First, Complainant contends that it is not aware of any relationship between it and Respondent that would give rise to any license, permission, or authorization given by Complainant to Respondent, to use the CARRIER Mark in the disputed domain name or otherwise. Complainant also asserts and the Whois record submitted in the Annex to the Complaint supports, Respondent appears to be trading under the name "Huang Hui", which does not resemble the disputed domain name in any manner.

The Panel finds that Respondent has neither any connection with Complainant, nor has Respondent been authorized or licensed by Complainant to use and register the CARRIER Mark or to register any domain name incorporating Complainant's CARRIER Mark.

Prior UDRP panels under the Policy have found that "[i]n the absence of any license or permission from Complainant to use its trademark, no actual or contemplated bona fide or legitimate use of the disputed domain name could reasonably be claimed". See *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#).

Paragraph 4(a)(ii) of the Policy also directs an examination of the facts to determine whether a respondent has rights or legitimate interests in a domain name. Paragraph 4(c) lists a number of ways in which a respondent may demonstrate that it does have such rights or legitimate interests.

Complainant contends Respondent is not commonly known by the disputed domain name or the CARRIER Mark, in accordance with paragraph 4(c)(ii) of the Policy. The Panel finds upon review of the Whois record and evidence submitted by Complainant that Respondent, Huang Hui, is not commonly known by the disputed domain name.

Complainant next contends that Respondent is not using the disputed domain name in connection with a legitimate noncommercial or fair use of the disputed domain name anticipated under paragraph 4(c)(iii) of the Policy, but has intentionally chosen a domain name based on a well-known registered trademark in order to generate traffic and income through a website featuring adult content, not related to Complainant in any way. The Panel notes that the record of evidence submitted in the Annex to the Complaint supports Complainant's argument that Respondent is juxtaposing Complainant's widely recognized CARRIER Mark for heating and cooling products and services with a "parked" page comprising pornographic pay-per-click links to websites featuring adult content by which Respondent likely earns click-through revenue.

Previous UDRP panels have held that "a respondent's use of a domain name will not be considered 'fair' if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and the complainant's mark is often central to this inquiry". Here, the disputed domain name combines the famous CARRIER Mark with terms descriptive of the Complainant's goods, namely, "air-conditioner", and uses such risk of implied affiliation to mislead Internet users expecting to find the Complainant and instead are directed to a website featuring pornographic pay-per-click links that likely result in click-through revenue for the Respondent and also likely to tarnish the Complainant's Mark and reputation. [WIPO Overview 3.0](#), sections 2.5.1 and 2.5.3.

In view of the above, the Panel finds that Complainant has made out a prima facie case that Respondent has no rights or legitimate interests in the disputed domain name. Respondent has not submitted any argument or evidence to rebut Complainant's prima facie case. The Panel determines, therefore, that Respondent does not have rights or legitimate interests in the disputed domain name and that Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Whether a domain name is registered and used in bad faith for purposes of the Policy may be determined by evaluating four (non-exhaustive) factors set forth in the Policy, paragraph 4(b):

- (i) circumstances indicating that the respondent has registered or the respondent has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registrations to complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the disputed domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website or other online location, by creating a likelihood of confusion with complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

The Panel finds that Respondent has registered and used the disputed domain name in bad faith for at least the following reasons.

First, Complainant contends and has provided persuasive support that Respondent registered the disputed domain name fully aware of Complainant's rights, because the submitted record shows the registration date of the disputed domain name is subsequent to when Complainant registered the CARRIER Mark in the United States where Respondent purportedly resides, and elsewhere, by decades and, therefore, Respondent cannot claim to have been using the CARRIER Mark, without being aware of Complainant's rights to it. Complainant's evidence in support of its allegations is sufficient for the Panel to agree that Respondent could not plausibly argue that it did not have knowledge of Complainant's world renowned CARRIER Mark, registered in the United States since 1992, when Respondent registered the disputed domain name decades later in March 2023.

Prior UDRP panels have acknowledged that it is highly unlikely that a respondent would not have had awareness of complainant's rights given complainant's recognition worldwide. See, e.g., *Carrier Corporation v. DNS Admin, Domain Privacy LTD*, WIPO Case No. [D2021-3728](#). The Panel also finds as have previous UDRP panels, that the CARRIER Mark is well known and distinctive. See e.g., *Carrier Corporation v. DNS Admin, Domain Privacy LTD*, WIPO Case No. [D2021-3728](#).

The Panel finds that given the decades of prior use of Complainant's CARRIER Mark prior to Respondent's registration of the disputed domain name, the worldwide recognition of the CARRIER Mark, and Respondent's addition of "air-conditioner" in the disputed domain name targeting Complainant's CARRIER Mark, Respondent registered the disputed domain name with actual knowledge of Complainant's CARRIER Mark in bad faith. See *Royds Withy King LLP v. Help Tobuy*, WIPO Case No. [D2019-0624](#). See [WIPO Overview 3.0](#), section 3.2.2; see, e.g., *eBay Inc. v. Sunho Hong*, WIPO Case No. [D2000-1633](#) (actual knowledge of Complainant's rights in its trademarks a factor supporting bad faith).

Moreover, the UDRP panel in *Intel Corporation v. The Pentium Group*, WIPO Case No. [D2009-0273](#), stated that, "[t]he incorporation of a well-known trademark into a domain name by a registrant having no plausible explanation for doing so may be, in and of itself, an indication of bad faith". See also *Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.*, WIPO Case No. [D2000-0163](#); *General Electric Company v. CPIC NET and Hussain Syed*, WIPO Case No. [D2001-0087](#); and *Microsoft Corporation v. Montrose Corporation*, WIPO Case No. [D2000-1568](#).

Respondent has had multiple opportunities to explain and justify how Respondent came to register the disputed domain name but has failed to do so. Indeed, the fact that Respondent has elected not to appear in this proceeding underscores that Respondent likely has no valid explanation for Respondent's actions, which to this Panel appears on the evidence submitted to have been undertaken in bad faith. See, e.g., *Volkswagen Group of America, Inc. v. Super Privacy Service Ltd. c/o Dynadot*, WIPO Case No. [D2019-2521](#).

Finally, Complainant contends Respondent's actions constitute use of the disputed domain name in bad faith because Respondent has chosen a trademark, which is world famous for its heating and cooling products and services, to attract visitors to a website featuring adult content.

As mentioned above, the disputed domain name is connected to websites featuring sexually explicit, pornographic content, not related to Complainant in any way. Previous UDRP panels have consistently held that a respondent's use of a confusingly similar domain name to direct unsuspecting Internet users to adult content, as here, is evidence of bad faith registration and use of that domain name. See *Microsoft Corporation v. Paul Horner*, WIPO Case No. [D2002-0029](#) (holding respondent's use of complainant's mark to post adult-oriented photographs and publish links to additional adult-oriented websites evidenced bad faith use and registration).

See also, *Bayerische Motoren Werke AG v. Victor Frankl*, WIPO Case No. [D2013-0701](#) ("In this case, Complainant alleges that Respondent registered and uses the disputed domain name in bad faith for a variety of reasons, particularly because of Respondent's use of the disputed domain name for an adult-content website. The Panel finds in this respect that such use must be considered as tarnishing the Trademark and Complainant and therefore constitutes an evidence of a bad faith use of the disputed domain name under the Policy.") This Panel finds the same conclusion should be applied here because Respondent is using the CARRIER Mark within the disputed domain name to attract visitors and then direct them to the

website featuring pay-per-click links for adult content. This use clearly constitutes an intentional attempt by Respondent to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with Complainant's CARRIER Mark as to the source, affiliation or endorsement of the website to which the disputed domain name resolves in violation of paragraph 4(b)(iv) of the Policy.

The Panel finds Complainant's arguments and evidence persuasive, and Respondent has submitted no arguments or evidence to the contrary. Considering all the circumstances, the Panel concludes that Respondent has registered and used the disputed domain name in bad faith and Complainant has satisfied paragraph 4(a)(iii) 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 <carrier-air-conditioner.com> be transferred to Complainant.

/Scott R. Austin/

Scott R. Austin

Sole Panelist

Date: September 9, 2024