

## **ADMINISTRATIVE PANEL DECISION**

City of Hope v. Summer Tree

Case No. D2024-3341

### **1. The Parties**

The Complainant is City of Hope, United States of America (the “United States”), represented by Abion GmbH, Switzerland.

The Respondent is Summer Tree, Afghanistan.

### **2. The Domain Name and Registrar**

The disputed domain name <cccforhope.org> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 14, 2024. On August 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 15, 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 service provided by Withheld for Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 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 amended Complaint on August 21, 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 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 20, 2024.

The Center appointed Marilena Comanescu as the sole panelist in this matter on September 25, 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, located in the United States, is a clinical research, treatment and prevention institution in the field of oncology. The Complainant treats patients at locations across the United States, including in comprehensive cancer hospitals and convenient outpatient locations in the Atlanta, Chicago, and Phoenix areas.

The Complainant is the holder of several United States trademark registrations for CITY OF HOPE, such as the following:

- the trademark number 1307558 for CITY OF HOPE (word), filed on January 30, 1984, registered on November 27, 1984, covering services in the International class 42; and
- the trademark number 2357571 for CITY OF HOPE (word), filed on August 2, 1999, registered on June 13, 2000, covering services in the International class 36.

The Complainant enjoys a strong online presence via its official website available at “cityofhope.org” registered since February 12, 1996, and on the main social media platforms.

The disputed domain name was registered on September 29, 2023, and, at the time of filing the Complaint, it was used in relation to a website promoting gambling services, in Chinese language.

According to evidence to Complaint, when accessing the URL corresponding to the disputed domain name, “www.cccforhope.org/departments-and-services”, it resolved to a webpage displaying the Complainant’s CITY OF HOPE trademark and logo; text, design elements, labels, and colors similar to the ones available on the Complainant’s official website. Also, on such webpage, it was provided a copyright claim for the CITY OF HOPE trademark and logo, and no information with regard to the actual registrant of the disputed domain name was available.

On May 28, 2024, the Complainant sent a cease-and-desist letter to the Respondent (through the privacy service listed in the WhoIs). No response was received.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for the transfer of the disputed domain name.

Notably, the Complainant contends that: the disputed domain name is confusingly similar to its widely known trademark CITY OF HOPE since it reproduces its dominant feature, the word “hope”, and incorporates a misspelled form of the trademark – to which the letters “i”, “t”, as well as “y” have been removed, the letters “o” and “f”, have been inverted and the letter “r” has been added; the content of the webpage corresponding to the disputed domain name emphasizes such similarity between the Complainant’s trademark and the disputed domain name and is further evidence that the Respondent sought to target the Complainant when registering the disputed domain name; the Respondent has no rights or legitimate interests in the disputed domain name; the Respondent has registered and is using the disputed domain name in bad faith since the use of the disputed domain name was for a website mimicking the Complainant’s website by including the

Complainant's trademark, logo, as well as identical textual and design elements, labels, colors as to the ones available on the Complainant's official website, copyright claims; as well, in parallel, the disputed domain name has been used to promote gambling activities; the Respondent did not reply to the Complainant's cease-and-desist letter; the Respondent's address provided in the Whois is most likely false; the Respondent may be involved in at least another similar case, since it holds a domain name comprising a misspelling of a third party trademark, used in a similar manner as the disputed domain name, i.e. for a website copying the look and feel of the trademark's holder genuine website and, in parallel, for a webpage displaying content related to gambling in Chinese.

## **B. Respondent**

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

## **6. Discussion and Findings**

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

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

### **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 or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable 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.

The use of the disputed domain name was for a website mimicking the Complainant's website by including the Complainant's trademark, logo, as well as identical textual and design elements, labels, colors as to the ones available on the Complainant's official website. The Panel finds that the content of the website associated with the disputed domain name confirms the confusing similarity. [WIPO Overview 3.0](#), section 1.15.

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.

According to the evidence provided in the Complaint, the Respondent has used the disputed domain name in connection with a website that copies the look-and-feel of the Complainant website, displaying the Complainant's trademark, logo, copyrighted texts and images, without providing any disclaimer or clear information regarding the disputed domain name holder. Panels have held that the use of a domain name for illegal activity (e.g., 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.

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 registered the disputed domain name in bad faith because it comprises the dominant element of the Complainant's trademark, tradename and domain name, the Complainant's mark acquired reputation in its field and predates the registration of the disputed domain name by almost forty years. Furthermore, the use of the disputed domain name enhances such finding.

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.

According to evidence provided in the Complaint, the disputed domain name was used to resolve to a website which aimed at imitating the Complainant's website, as well, in parallel, to promote gambling activities.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "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 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" is evidence of registration and use in bad faith.

Given that the disputed domain name includes the dominant element of the Complainant's trademark, the disputed domain name has been used to create an URL directing Internet users to a webpage that copies the look-and-feel of the Complainant's website, displaying the Complainant's trademark, logo, copyrighted texts and images, color scheme, without providing a disclaimer or clear information on the owner, indeed in this Panel's view, the Respondent has intended to attract unsuspecting Internet users accessing the website corresponding to the disputed domain name who may be confused and believe that the website is held, controlled by, or somehow affiliated with or related to the Complainant, for the Respondent's commercial gain.

As well, the use of the disputed domain name in relation to a website promoting betting activities is evidence of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

Furthermore, in the present case, the Panel finds further evidence of bad faith behavior the following circumstances: the Respondent's failure to provide a response to the Complainant's cease-and-desist letter and in the present proceedings; and the provision of false contact information in the WhoIs, underlying a privacy service. [WIPO Overview 3.0](#), section 3.6.

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 <cccforhope.org> be transferred to the Complainant.

*/Marilena Comanescu/*

**Marilena Comanescu**

Sole Panelist

Date: October 9, 2024