

ADMINISTRATIVE PANEL DECISION

CWI, LLC v. Muradali Esmail, Cybernet Marketing Case No. D2024-3397

1. The Parties

The Complainant is CWI, LLC, United States of America (“United States”), represented by Neal & McDevitt, United States.

The Respondent is Muradali Esmail, Cybernet Marketing, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <campingworldonline.com> (“Disputed Domain Name”) is registered with eNom, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 19, 2024. On August 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On August 20, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 21, 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 23, 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 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 17, 2024. On September 6, 2024, the Respondent sent an informal response to the Center. The proceeding was suspended for 30 days from September 23, 2024, after the Center received the Complainant’s request to suspend the proceeding on September 20, 2024. On October 17, 2024, the Center received the Complainant’s email that the Parties had yet to reach a



settlement. On October 24, 2024, the proceeding was reinstated. Accordingly, the Center proceeded to the Panel Appointment.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on October 29, 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.

The Center informed the Panel of the Complainant's request received on October 30, 2024 to suspend the proceeding for a second time. The Panel issued a Procedural Order No.1, suspending the proceeding for 30 days until November 30, 2024. On November 27, 2024, the Complainant notified the Center by email that the Parties had not been able to reach a settlement agreement, and would like to resume the proceeding. The Procedural Order No. 2 was issued on December 2, 2024, ordering that the proceeding was reinstated on the same day.

4. Factual Background

The Complainant, both directly and indirectly via its licensees and related entities, operates a networks of recreational vehicle ("RV") sales in the United States, and also offers RV equipment and accessories and RV service centers under the "CAMPING WORLD" brand. Since its inception in the mid-1960's, the Complainant has established over 185 retail and service locations in North America.

The Complainant owns various word and figurative trademarks for the "CAMPING WORLD" mark. The relevant trademarks include, inter alia, the United States Trademark Registration No. 4,536,315 for " CAMPING WORLD" in Classes 35, 37, and 39 registered on May 27, 2014, the United States Trademark Registration No. 4,536,313 for "CAMPING WORLD" in Classes 35, 37, and 39 registered on May 27, 2014, the United States Trademark Registration No. 4,532,411 for "" in Classes 35, 37, and 39 registered on May 20, 2014 (the "Complainant's Trademark").

The Complainant's Trademark is also fully incorporated in the Complainant's domain name <campingworld.com> (the "Complainant's Domain Name") and resolves to the Complainant's primary website (the "Complainant's Website").

The Disputed Domain Name was registered on July 16, 2024, many years after the Complainant registered the Complainant's Trademark. At the time of filing of the Complaint, the Disputed Domain Name purportedly resolved to a website (the "Respondent's Website") featuring an online retail store that displayed a logo that the Complainant claimed to have closely resembled its figurative marks (Registration Nos. 4,532,411 and 4,536,315). The Respondent's Website purportedly offered for sale a variety of outdoor recreational equipment. At the time of rendering of this Decision, the Panel notes that the Disputed Domain Name resolves to an inactive 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:

- (a) The Disputed Domain Name is identical or confusingly similar to the Complainant's Trademark. The Complainant's Trademark is reproduced in its entirety in the Disputed Domain Name. The generic Top-Level Domain (gTLD) ".com" should not prevent a finding of confusing similarity and should be disregarded.

(b) The Respondent has no rights or legitimate interests in the Disputed Domain Name. The Respondent is not affiliated with the Complainant in any way, and the Respondent has not obtained any license, sponsorship, permission or authorization from the Complainant to use the Complainant's Trademark as part of a domain name or otherwise. There is also no evidence that the Respondent is commonly known by the Disputed Domain Name. The Respondent is utilizing the Complainant's Trademark in the Disputed Domain Name to intentionally attract Internet users to the Respondent's Website by creating a likelihood of confusion with the Complainant's Trademark for its own financial gain.

(c) The Respondent has registered the Disputed Domain Name and is using it in bad faith. The Respondent aims to create a likelihood of confusion with the Complainant's Trademark and has attempted to divert business away from the Complainant for the Respondent's own commercial gain by using the Complainant's Trademark in the Disputed Domain Name and by offering goods related to the Complainant's business. Given the goodwill and reputation that the Complainant has acquired, the Respondent must have been fully aware of the existence of the Complainant's rights in the Complainant's Trademark when the Respondent registered and used the Disputed Domain Name. Moreover, the Respondent's organization "Cybernet Marketing" has a history of bad faith registration and use of domain names, as it had registered other domain names that are identical or confusingly similar to the trademarks owned by third parties, in order to prevent the other trademark owners from reflecting their marks in a corresponding domain name.

B. Respondent

The Respondent provided a submission to the Center on September 6, 2024 saying that he had searched for a domain name on <enom.com> (the "Registrar's Website") and found that the Disputed Domain Name was available, and the Registrar's Website let him purchase the Disputed Domain Name. The Respondent claimed that he had deleted the Respondent's Website and will no longer use the Disputed Domain Name. Apart from this communication, the Respondent did not file a formal response to address the Complainant's contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (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 respect of the Disputed Domain Name; and
- (iii) the Disputed Domain Name has been registered and is being used by the Respondent 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 entirety of the Complainant's Trademark is reproduced within the Disputed Domain Name. Furthermore, it is well established that the gTLD, ".com" in this case, may be disregarded for the purposes of assessing confusing similarity under the first element. See section 1.11.1 of the [WIPO Overview 3.0](#). Accordingly, the Disputed Domain Name is confusingly similar to the Complainant's Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of the other term “online” 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 Complainant’s Trademark for the purposes of the Policy.

[WIPO Overview 3.0](#), section 1.8.

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.

The Respondent’s failure to respond to the Complainant’s contentions may result in the Panel drawing appropriate inferences. The Panel may also accept all reasonable and supported allegations and inferences flowing from the Complainant as true (see *Entertainment Shopping AG v. Nischal Soni, Sonik Technologies*, WIPO Case No. [D2009-1437](#); and *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#)).

The Panel considers that the Respondent’s email dated September 6, 2024, does not respond to the Complainant’s contentions and so, does not satisfactorily address the Complainant’s arguments under this element.

The Panel agrees with the Complainant that there is no evidence to show that the Respondent has trademark rights corresponding to the Disputed Domain Name, or that the Respondent has become known by the Disputed Domain Name. The Panel further notes that the Complainant has provided no license or authorization of any kind to the Respondent to use the Complainant’s Trademark or to apply for or use any domain name incorporating the Complainant’s Trademark. Besides, the Respondent’s Website, although inactive at the time of rendering this Decision, had purportedly offered the same products such as camping gear that are also available on the Complainant’s Website. In these circumstances, the reproduction of the Complainant’s Trademark together with the term “online” in the Disputed Domain Name also leads to a risk of implied affiliation.

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 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, given the reputation of the “CAMPING WORLD” brand and the fact that the Respondent appears to be, or at least associated with, a marketing organization, the Panel considers it more likely than not that the Respondent knew, or at least should have known, of the existence of the Complainant’s rights in the Complainant’s Trademark when the Respondent registered and used the Disputed Domain Name.

The Respondent’s registration and use of the Disputed Domain Name appears intended to mislead and divert Internet users to the Respondent’s Website for commercial gain by creating a likelihood of confusion with the Complainant’s Trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s Website. See paragraph 4(b)(vi) of the Policy and section 3.1 of the [WIPO Overview 3.0](#). As discussed above, the Respondent lacks any rights or legitimate interests in the Disputed Domain Name (see *Washington Mutual, Inc. v. Ashley Khong*, WIPO Case No. [D2005-0740](#)). Further, the Respondent failed to respond to the Complainant’s contentions and has provided no clear explanation for the choice of the disputed domain name. Rather, upon receiving notice of the dispute, the Respondent deleted the Respondent’s Website and indicated he would no longer use the disputed domain name.

The Panel notes that the Disputed Domain Name now resolves to an inactive website. Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the Disputed Domain Name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the reputation of the Complainant’s Trademarks, the composition of the Disputed Domain Name, and the Respondent’s failure to respond to the Complainant’s contentions, and 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 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 <campingworldonline.com> be transferred to the Complainant.

/Gabriela Kennedy/

Gabriela Kennedy

Sole Panelist

Date: December 14, 2024