

ADMINISTRATIVE PANEL DECISION

CenterPoint Energy, Inc. v. Carolina Rodrigues,
Fundacion Comercio Electronico
Case No. D2024-3493

1. The Parties

The Complainant is CenterPoint Energy, Inc., United States of America (the “US”), represented by Fibbe Lightner, LLP, US.

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <centerpoint.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 August 28, 2024. On August 28, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 3, 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 amendment to the Complaint on September 3, 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 the Respondent of the Complaint, and the proceedings commenced on September 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 4, 2024.

The Center appointed Taras Kyslyy as the sole panelist in this matter on October 23, 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 company in the US, with over a billion dollars in net income, operating in the field of energy delivery, including electric transmission and distribution, natural gas distribution and energy services operations. The Complainant first adopted the name "CenterPoint Energy" on February 2, 2001. Its millions of customers typically know and refer to the company as "CenterPoint". The Complainant owns numerous registrations for the mark CENTERPOINT, including the US trademark registration No. 2782081, registered on November 11, 2003.

The disputed domain name was registered on August 14, 2023, and resolves to a parked webpage containing pay-per-click links and has been identified as a malware site.

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 disputed domain name is identical or confusingly similar to the Complainant's trademark. The disputed domain name is comprised solely of a typographical misspelling of the Complainant's trademark and is confusingly similar to and virtually identical to the Complainant's trademark. The disputed domain name consists of the Complainant's trademark in its entirety, with the first "n" replaced with the visually similar letter "m." Domain names that constitute typosquatting, as the disputed domain name, are deemed confusingly similar to the mark they intentionally modify.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is a typosquatter and has registered the disputed domain name with a minor typographical error. The Respondent is not and never has been known by the disputed domain name. The Complainant has not authorized, licensed, or otherwise permitted the Respondent to use the Complainant's trademark, nor is the Complainant in any way or manner associated with or related to the Respondent. Based on the searches the Complainant has undertaken, no other person or legal entity owns registered trademark rights corresponding to the Complainant's trademark anywhere in the world, nor has anyone applied for such a registration. The Respondent offers no bona fide goods or services through the disputed domain name and operates no bona fide business. Rather, the Respondent is exploiting the disputed domain name to resolve to a website page containing links to other websites. The Respondent has no intent to use the disputed domain name in connection with a bona fide offering of goods or services and instead seeks to confuse consumers into believing they are on a website for CENTERPOINT rather than Respondent's confusingly similar "CEMTERPOINT."

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. The fact that the Respondent simply replaced an "m" with an "n" to render a misspelling of the Complainant's trademark constitutes evidence of bad faith. The Respondent registered the disputed domain name on August 14, 2023, more than twenty years after the Complainant first used its trademark and by which time the Complainant's trademark was well established with millions of consumers in the United States. The Respondent is intentionally for commercial purposes misleading consumers searching for the Complainant and, presumably, earning revenue when Internet users are re-directed to the website links at the disputed domain name. The fact that the Respondent labels the top of the first webpage associated with the disputed domain name with "CEMTERPOINT.COM" rather than CENTERPOINT does not change its

intention. The Respondent's intention from the outset has been to use the disputed domain name to attract Internet users to the Respondent's website on the back of the Complainant's name recognition and with an intention for commercial gain. The disputed domain name is being used by the Respondent as a malware site. Per a recent report received by the Complainant, the disputed domain name was identified as "a malware site that leads to malicious content, including executables, drive-by infection sites, malicious scripts, viruses, trojans or code".

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

A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. The Panel considers the disputed domain name <centerpoint.com> consists of intentional misspelling of the Complainant's trademark CENTERPOINT. [WIPO Overview 3.0](#), section 1.9.

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 available evidence does not confirm that the Respondent is commonly known by the disputed domain name, which could demonstrate its rights or legitimate interests (see, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones TheDotCafe*, WIPO Case No. [D2008-0642](#)).

The Complainant did not license or otherwise agree for use of its prior registered trademark by the Respondent.

The use of a domain name to host a parked page comprising pay-per-click links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users. The Panel finds this applies to the present case. [WIPO Overview 3.0](#), section 2.9.

Panels have held that the use of a domain name for illegal activity here, claimed distributing malware, 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 being close and misspelling of the Complainant's known trademark, which confirms the Respondent knew or should have known about the Complainant and its trademark while registering the disputed domain name, which is bad faith. [WIPO Overview 3.0](#), section 3.2.2.

According to paragraph 4(b)(iv) of the Policy the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith: by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location or of a product or service on your website or location. Using the disputed domain name to host a pay-per-click parking page the Respondent creates a likelihood of confusion with the Complainant's trademark and potentially obtains revenue from this practice. Under such circumstances the Panel finds that the disputed domain name is being used in bad faith.

The disputed domain name was flagged as a malware site that reportedly leads to malicious content. Panels have held that the use of a domain name for illegal activity here, claimed distributing malware, 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 <cemterpoint.com> be transferred to the Complainant.

/Taras Kyslyy/

Taras Kyslyy

Sole Panelist

Date: November 6, 2024