

ADMINISTRATIVE PANEL DECISION

The Leukemia & Lymphoma Society, Inc. v. tina york
Case No. D2024-4136

1. The Parties

Complainant is The Leukemia & Lymphoma Society, Inc., United States of America (“U.S.” or “United States”), represented by Venable, LLP, United States.

Respondent is tina york, United States.

2. The Domain Name and Registrar

The disputed domain name <lightthenightevents.com> (“Domain Name”) is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 8, 2024. On October 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Dalton S. York) and contact information in the Complaint. The Center sent an email communication to Complainant on October 10, 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 October 11, 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 October 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 10, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on November 11, 2024.

The Center appointed John C. McElwaine as the sole panelist in this matter on November 15, 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

Complainant, The Leukemia & Lymphoma Society, Inc., founded in 1949, is a New York non-profit corporation with its principal place of business located in Rye Brook, New York.

Complainant is the owner of a several of United States federal trademark registrations for its family of LIGHT THE NIGHT trademarks, namely, U.S. Reg. Nos. 2,266,963; 5,531,342; 5,531,343; 5,889,778; 5,889,783; and, 5,884,249, the earliest of which issued August 3, 1999, for use of the marks in connection with Complainant's charitable fund raising for leukemia research, patient aid and public and professional education services and services in connection with promoting awareness of cancer research, treatment, information, and support for patients and families; promoting awareness of cancers and the need for continued research, treatment, information and support for patients and their families. Collectively, these trademark rights are referred to herein as "LIGHT THE NIGHT Mark".

Complainant has owned the domain name <lightthenight.org> since at least 1999.

The Domain Name was registered on May 21, 2018. According to Annex 12 of the Complaint, the Domain Name resolves to a website that purports to provide lantern-based events with a theme of "Spreading Light & Hope Around the World" with past events allegedly having been held at White Sands National Park, New Mexico (September 28, 2024) and Great Sand Dunes National Park, Colorado (October 12, 2024).

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

As background, Complainant describes itself as a non-profit organization, founded in 1949, whose mission it is to advance cancer research through various fundraising and sponsorship activities including, but not limited to providing direct education and support to cancer patients and their families and promoting public awareness of needs in the field of cancer. One of Complainant's signature fundraising events is the Light The Night Walk. Complainant contends that it is the owner and legitimate user of the LIGHT THE NIGHT Mark in connection with providing charitable fundraising services by means of organizing and conducting special events that occur at night and feature lanterns, among other related goods and services. Complainant states that for more than 25 years, Complainant has organized and conducted LIGHT THE NIGHT events, its flagship event series. LIGHT THE NIGHT events allow family, friends, and coworkers to gather together to celebrate, honor, or remember those touched by cancer. The nighttime events raise funds to support the mission of cancer research. As a key element of the events, walkers carry illuminated lanterns and lift them in the air to spread light and hope for those touched by cancer. Complainant's LIGHT THE NIGHT events have raised over USD 1 billion in support of Complainant's mission. In connection with its LIGHT THE NIGHT events, Complainant has owned and operated the domain name <lightthenight.org> since at least 1999. Complainant's LIGHT THE NIGHT events are promoted on Complainant's website and often take place in public spaces such as parks across the United States.

As to the first element of the Policy, Complainant contends that the Domain Name is confusingly similar to its LIGHT THE NIGHT Mark. Complainant argues that the Domain Name wholly incorporates the LIGHT THE NIGHT Mark with the only difference being the addition of the descriptive term “events”, a term directly related to Complainant’s services, and thus the additional term does not remove the alleged confusing similarity.

With respect to the second element of the Policy, Complainant asserts that Respondent has no rights or legitimate interests in the Domain Name. It claims that Respondent was never authorized to use Complainant’s trademarks, that there is no evidence that Respondent is commonly known by the Domain Name, that there is no evidence that Respondent has made noncommercial or fair use of the Domain Name, nor is there any evidence that Respondent uses the Domain Name in connection with the bona fide offering of goods or services. Rather, Complainant contends that Respondent’s use of the Domain Name is a direct infringement of Complainant’s rights in the LIGHT THE NIGHT Mark. Furthermore, Complainant contends that Respondent, while advertising alleged past events on its website, and offering tickets for sale to these events, has never actually conducted any of the alleged past events, and instead is using the Domain Name to divert consumers to the Domain Name for Respondent’s own financial gains through illegal activities.

Regarding the last element of bad faith, Complainant alleges that Respondent registered and is using the Domain Name primarily to profit from and exploit Complainant’s well-known LIGHT THE NIGHT Mark. Complainant points out that the Domain Name resolves to a website offering allegedly infringing services. Complainant further contends that a cease and desist letter was sent to Respondent in 2019, which at the time appeared to resolve the matter and resulted in Respondent beginning use of a new website “www.lightsoveramerica.events”, with “Lights Over America” branding, however, use of the Domain Name resumed again in 2024, despite the previous cease and desist. Complainant further contends that Respondent is using the Domain Name to lure consumers to the website, preying on the goodwill associated with the LIGHT THE NIGHT Mark to sell tickets to allegedly non-existent events and then failing to provide purchasers with refunds and that such allegedly illegal activity is evidence of bad faith.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Even though Respondent has defaulted, paragraph 4 of the Policy requires that, in order to succeed in this UDRP proceeding, Complainant must still prove its assertions with evidence demonstrating:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

Because of Respondent’s default, the Panel may accept as true the reasonable factual allegations stated within the Complaint and may draw appropriate inferences therefrom. See *St. Tropez Acquisition Co. Limited v. AnonymousSpeech LLC and Global House Inc.*, WIPO Case No. [D2009-1779](#); and *Bjorn Kasso Andersen v. Direction International*, WIPO Case No. [D2007-0605](#); see also paragraph 5(f) of the Rules (“If a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint”). Having considered the Complaint, the Policy, the Rules, the Supplemental Rules and applicable principles of law, the Panel’s findings on each of the above-cited elements are as follows.

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 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.

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 Domain Name.

The Domain Name incorporates the LIGHT THE NIGHT Mark in its entirety with the addition of the term "events", a term directly related to Complainant's services offered under the LIGHT THE NIGHT Mark. As stated in section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within a disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element.

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 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.

In this matter, Complainant contends that Respondent is not authorized to register the Domain Name, nor does Respondent have any affiliation, association, or connection with Complainant and Respondent, having been properly notified by the Center, has not rebutted these contentions. The silence of a respondent may support a finding that it has no rights or legitimate interests in respect of the domain name. See *Alcoholics Anonymous World Services, Inc., v. Lauren Raymond*, WIPO Case No. [D2000-0007](#); *Ronson Plc v. Unimetal Sanayi ve Tic.A.S.*, WIPO Case No. [D2000-0011](#). Additionally, previous UDRP panels have found that when respondents have not availed themselves of their rights to respond to complaint, it can be assumed in appropriate circumstances that respondents have no rights or legitimate interests in the disputed domain name. See *AREVA v. St. James Robyn Limoges*, WIPO Case No. [D2010-1017](#); *Nordstrom, Inc. and NIHC, Inc. v. Inkyu Kim*, WIPO Case No. [D2003-0269](#).

Having reviewed the available record the Panel finds the Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Domain Name. 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 Domain Name such as those enumerated in the Policy¹ or otherwise.

¹ The Policy, paragraph 4(c), provides a non-exhaustive list of circumstances in which a respondent could demonstrate rights or legitimate interests in a contested domain name: "(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

As an initial matter, there is no evidence that Respondent is commonly known by the Domain Name and is, instead, known as tina york, as disclosed by the Registrar. The Panel therefore finds, based on the record and the lack of evidence otherwise, that Respondent is not commonly known by the Domain Name. See *Moncler S.p.A. v. Bestinfo*, WIPO Case No. [D2004-1049](#) (“the Panel notes that the respondent’s name is “Bestinfo” and that it can therefore not be “commonly known by the Domain Name.”)

The Panel also finds that Respondent’s use is not legitimate use of the Domain Name. Respondent is using the Domain Name to resolve to a website offering tickets for sale to allegedly non-existing/never occurring events. Panels have held that the use of a domain name for illegitimate/illegal activity, the sale of tickets to allegedly non-existent events can never confer rights or legitimate interests on a respondent.

[WIPO Overview 3.0](#), section 2.13.1. In addition, the use of the Domain Name to divert Internet traffic to an infringing or misleading webpage is not a bona fide offering of goods or services. See *Chicago Mercantile Exchange Inc., CME Group Inc. v. Registration Private, Domains By Proxy, LLC, DomainsByProxy.com / Nikolay Korobeynikov*, WIPO Case No. [D2016-0654](#). The Panel notes that the contentions by Complainant about the website resolving at the Domain Name and the alleged activities occurring therein have not been rebutted by Respondent in this proceeding.

Lastly, Respondent’s use of the Domain Name is not noncommercial or fair use under paragraph 4(c)(iii) of the Policy, given that Respondent is selling tickets to allegedly occurring events that are directly competitive to Complainant’s events from Respondent’s website. Such activity does not amount to a fan site, criticism, or other activity that may be considered noncommercial or fair use.

The Panel finds that Respondent does not have rights or legitimate interests in the Domain Name and that Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, Complainant must show that Respondent registered and is using the Domain Names in bad faith. A non-exhaustive list of factors constituting bad faith registration and use is set out in paragraph 4(b) of the Policy.

Bad faith registration can be found where a respondent “knew or should have known” of a complainant’s trademark rights and nevertheless registered a domain name in which it had no rights or legitimate interests. See *Accor v. Kristen Hoerl*, WIPO Case No. [D2007-1722](#). As detailed above, Respondent registered the Domain Name which is confusingly similar to the LIGHT THE NIGHT Mark and used the Domain Name to offer competitive/infringing services. There is no explanation for Respondent to have chosen to register the Domain Name other than to intentionally trade off the goodwill and reputation of Complainant’s trademark or otherwise create a false association with Complainant. With no response from Respondent, this claim is undisputed.

Respondent’s use of the Domain Name to resolve to a website offering services in competition with Complainant, also amounts to bad faith use of the Domain Name by Respondent. See *Identigene, Inc. v. Genetest Laboratories*, WIPO Case No. D2000-1100 (finding bad faith where the respondent’s use of the domain name at issue to resolve to a website where similar services are offered to Internet users is likely to confuse the user into believing that the complainant is the source of or is sponsoring the services offered at the site); *MathForum.com, LLC v. Weiguang Huang*, WIPO Case No. [D2000-0743](#) (finding bad faith under paragraph 4(b)(iv) of the Policy where the respondent registered a domain name confusingly similar to the complainant’s mark and the domain name was used to host a commercial website that offered similar services offered by the complainant under its mark). Complainant, for decades, as used its LIGHT THE NIGHT Mark in connection with the provision of charitable fundraising services and in connection with promoting public awareness of cancer and the need for continued cancer research efforts in the form of night-time walks with a key element of the event being walkers carrying illuminated lanterns and lifting them in the air to spread light and hope for those touched by cancer. Respondent, similarly, is purportedly offering lantern-themed night walks under the identical/virtually identical LIGHT THE NIGHT name. The Panel finds, based on the uncontested allegations set forth by Complainant, that Respondent intentionally targeted

Complainant's LIGHT THE NIGHT Mark when it registered the Domain Name with the bad faith intent to divert Internet traffic seeking Complainant's event and to profit off the goodwill associated with Complainant's trademark.

Having reviewed the record, the Panel finds Respondent's registration and use of the Domain Name constitutes bad faith under the Policy. The Panel finds that 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 Domain Name, <lightthenightevents.com>, be transferred to Complainant.

/John C. McElwaine/

John C. McElwaine

Sole Panelist

Date: November 29, 2024