

ADMINISTRATIVE PANEL DECISION

Aggregate Industries UK Limited v. Chris Carlin
Case No. D2024-4509

1. The Parties

The Complainant is Aggregate Industries UK Limited, United Kingdom, internally represented.

The Respondent is Chris Carlin, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <bradstonepaving.com> is registered with Wix.com Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 24, 2024. On November 1, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 5, 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 (Bradstone Paving) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 6, 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 November 7, 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 November 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 29, 2024.

The Center appointed Steven A. Maier as the sole panelist in this matter on December 4, 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 registered in the United Kingdom. It is a supplier of paving, landscaping, and driveway products.

The Complainant is the owner of various United Kingdom trademark registrations for or incorporating the mark BRADSTONE, including, for example:

- United Kingdom trademark number 765835 for the word mark BRADSTONE, registered on May 22, 1957 in International Class 19; and
- United Kingdom trademark number 3576437 for a figurative mark BRADSTONE, registered on May 14, 2021, in International Classes 19 and 39, for goods and services including paving materials.

The disputed domain name was registered on June 20, 2024.

On October 15, 2024, the disputed domain name resolved to a website headed “BRADSTONE Paving”, claiming to “have been providing driveways, lock paving, tarmac and hard landscaping services across all of Manchester [United Kingdom] for over 15 years.”

At the date of this Decision, the disputed domain name resolved to a Registrar’s holding page stating that the disputed domain name was not connected to any website.

5. Parties’ Contentions

A. Complainant

The Complainant submits that the disputed domain name is confusingly similar to its trademark BRADSTONE. It contends that the disputed domain name wholly incorporates that trademark, adding the term “paving”, which is descriptive, and which relates to the Complainant’s business.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has never authorized the Respondent to use its BRADSTONE trademark, and that the Respondent appears to have registered the disputed domain name in order to mislead Internet users.

The Complainant submits that the disputed domain name has been registered and is being used in bad faith. It contends, in particular, that the Respondent registered and has used the disputed domain name intentionally to attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s trademark as to the source, affiliation or endorsement of the Respondent’s website (paragraph 4(b)(iv) of the Policy).

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are 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 respect of 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

The Complainant has established that it is the owner of registered trademark rights for the mark BRADSTONE. The disputed domain name wholly incorporates that mark, together with the dictionary term “paving”, which does not prevent the Complainant’s trademark from being recognizable within the disputed domain name. The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests, and Registered and Used in Bad Faith

The Panel considers it appropriate in this case to deal with the second and third elements under the policy together.

The Respondent purports to use the disputed domain name for the purpose of a business named “Bradstone Paving”. The Complainant submits that such use infringes its rights in its BRADSTONE trademark; however, that claim alone is insufficient for the Complainant to succeed under the Policy. The UDRP does not provide a forum for the resolution of competing trademark claims between legitimate businesses, and for the Complainant to succeed it must establish that the Respondent’s purported business and website are not bona fide and are in fact a sham or pretext for the targeting of the Complainant’s trademark rights.

In this case, the Panel concludes, on the balance of probabilities, that the Respondent’s business and website are not genuine and that the disputed domain name was registered and has been used in order to target the Complainant’s trademark and business goodwill. The Panel has reached this conclusion for the following reasons:

- The Respondent has failed to file a Response in the proceeding, or to make any reply to the Complainant’s submissions that it has no rights or legitimate interests in respect of the disputed domain name and that it registered and has used the disputed domain name in bad faith. The UDRP, which was incorporated in the Respondent’s registration agreement for the disputed domain name, requires the Respondent to submit to the administrative proceeding which was initiated by the Complainant.
- There is nothing in the Respondent’s registration details, as reported by the Registrar, to suggest any connection with any business named “Bradstone Paving”.
- The Panel considers the Respondent’s website, when it was available, to have been highly generic in its content, including both its text and images, and lacking any of the specific content, e.g. particular project details or customer testimonials, that one might reasonably expect to be included for a business claiming to have a 15-year track record.
- The Panel having conducted a search at <google.co.uk> against the term “bradstone paving”,¹ none of the results appeared to relate to the Respondent’s supposed business, and virtually all such results related to the Complainant and its products. Again, it is somewhat surprising that a business claiming 15 years standing would appear to have no Internet presence.

¹ As discussed in section 4.8 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision.

- The Respondent's website appears in any event to have been removed after the filing of the present Complaint, and the disputed domain name currently resolves to a Registrar's holding page stating that no website is connected.

The Panel concludes in the circumstances that the Respondent did not register the disputed domain name for the purposes of a bona fide business, but instead to take unfair advantage of the goodwill attaching to the Complainant's BRADSTONE trademark, which the Panel finds to be widely associated with paving products, and to attempt, for commercial gain, to attract Internet users to its website by creating a likelihood of confusion with the Complainant's trademark.

The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name has been registered and is being used in bad faith.

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 <bradstonepaving.com> be transferred to the Complainant.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: December 11, 2024