

ADMINISTRATIVE PANEL DECISION

Phoenix Contact GmbH & Co. KG v. Aleksandr V Grevtsov
Case No. D2024-4673

1. The Parties

The Complainant is Phoenix Contact GmbH & Co. KG, Germany, represented by Taylor Wessing Partnerschaftsgesellschaft mbB, Germany.

The Respondent is Aleksandr V Grevtsov, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <phoenixcontact.pro> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 13, 2024. On November 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 14, 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 November 14, 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 November 14, 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 November 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 6, 2024.

The Center appointed Alissia Shchichka as the sole panelist in this matter on December 9, 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 German company operating in the field of electrical engineering, electronics, and automation, offering components, systems, and solutions. It employs approximately 20,000 people and provides products and services in over 100 countries through a network of subsidiaries and distribution partners.

The Complainant's trademark PHOENIX CONTACT has been in use since 1982 in Germany and internationally. The brand has a long history of over 90 years and is widely recognized in the industry. In 2022, the company reported annual sales of EUR 3.6 billion, reflecting its significant presence in the electrical engineering market.

The Complainant has evidenced to be the registered owner of numerous trademarks worldwide relating to its trademarks PHOENIX CONTACT including, but not limited, to the following:

- International Trademark Registration No. 1125907, designating numerous countries, for the mark PHOENIX CONTACT, registered on October 28, 2011, in classes 3, 6, 7, 8, 9, 16, 17, 36, 37, 38, 39, 41, and 42;
- European Union Trademark Registration No. 004894085, for the figurative mark PHOENIX CONTACT, registered on April 10, 2007, in classes 6, 8, and 9.

The aforementioned trademarks were registered prior to the disputed domain name, which was created on August 12, 2024. At the time of the decision, the disputed domain name redirected to a webpage titled "Phoenix Dance," which showcased various courses such as drawing classes, web design, violin lessons, unconventional photography, art for everyone, and space training.

However, according to information provided by the Complainant, the content of the website associated with the disputed domain name had been altered. Previously, it redirected to a website impersonating the Complainant, offering the Complainant's products and displaying PHOENIX CONTACT trademarks.

According to the disclosed WHOIS information, the Respondent of the disputed domain name is located in the Russian Federation.

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 emphasizes that the PHOENIX CONTACT trademark is well-known.

The Complainant contends that the disputed domain name is identical to its PHOENIX CONTACT trademark, as it incorporates the whole mark. The Complainant also notes that the generic Top-Level Domain ("gTLD") ".pro"), does not render the disputed domain name dissimilar to the Complainant's trademark but only creates the impression, that the disputed domain name is marketed to professionals and

professional firms. Furthermore, it should be disregarded under the first element, as it is a standard registration requirement and does not affect the analysis of confusing similarity.

The Complainant argues that the Respondent has no rights or legitimate interests in the disputed domain name for the following reasons: (1) The Complainant's trademark PHOENIX CONTACT enjoys a worldwide reputation, and the registration of an identical disputed domain name cannot be coincidental. This is further evidenced by the Respondent's unauthorized use of the disputed domain name in connection with a website offering a range of purported PHOENIX CONTACT products, thereby creating a likelihood of confusion with the Complainant's well-known trademarks; (2) the Respondent is not an authorized reseller of the Complainant's products and does not meet the criteria established in the Oki Data case for legitimate use by a reseller. Specifically, the exceptions that justify bona fide use apply only to domain names that combine the trademark with additional descriptive terms. The use of an identical domain name, as is the case here, does not fall within the scope of legitimate interest under the criteria established by Oki Data. (3) Furthermore, the Respondent's use of an identical disputed domain name strongly implies unauthorized affiliation or endorsement by the trademark owner. UDRP panels consistently hold that domain names identical to a third-party well-known trademark inherently carry a high risk of confusion, and such use cannot constitute fair or legitimate use.

Finally, the Complainant argues that the Respondent has registered and is using the disputed domain name in bad faith for the following reasons: (1) The Respondent was clearly aware of the Complainant and its trademarks at the time of registration, as evidenced by the use of the Complainant's trademarks, company name and logo on the Respondent's website. This shows that the Respondent knowingly targeted the Complainant's trademark to impersonate the Complainant and profit from a disputed domain name confusingly similar to the PHOENIX CONTACT trademark; and (2) the Respondent has intentionally attempted to attract Internet traffic for commercial gain by creating a likelihood of confusion with the Complainant's trademark PHOENIX CONTACT.

The Complainant requests that the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant carries the burden of proving:

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

The Respondent's default in the case at hand does not automatically result in a decision in favor of the Complainant, however, paragraph 5(f) of the Rules provides that if the Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the Complaint.

Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from the Respondent's failure to submit a response as it considers appropriate.

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 mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

Currently, the website associated with the disputed domain name appears to display content unrelated to the Complainant's trademark. However, the Panel harbors significant doubts regarding the authenticity of the website's current use. The images and inconsistencies in the information suggest that the site may have been artificially generated, likely serving as a placeholder or "screen site".

Furthermore, based on the evidence submitted by the Complainant, the website previously associated with the disputed domain name displayed the Complainant's trademarks, company name, and logo, while offering products bearing the Complainant's trademark.

In this regard, the Panel believes that the Respondent cannot be assessed as a legitimate distributor or reseller of the Complainant's products in light of the criteria set forth in "Oki Data test" and thus is not entitled to use the disputed domain name accordingly. *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#); and [WIPO Overview 3.0](#), section 2.8

Those criteria, if fulfilled, may enable a respondent, such as a reseller or independent service provider, to establish rights or legitimate interests in a domain name that incorporates a trademark owner's mark. However, the criteria set forth in Oki Data are not satisfied in the present case. The website linked to the disputed domain name failed to accurately and prominently disclose the nature of the relationship - or the lack of it - between the Respondent and the Complainant.

On the contrary, the content of the Respondent's website strongly suggested an affiliation with the Complainant. This includes the prominent display of the Complainant's trademarks, official product images, and misleading statements implying an official association, such as references to "PHOENIX CONTACT GMBH & CO. KG" and claims of reliability spanning decades. Collectively, these elements create the false impression that the disputed domain name is under the control of, endorsed by, or formally associated with the Complainant.

Furthermore, given the composition of the disputed domain name, wholly incorporating the Complainant's trademark and the absence of any relationship between the Respondent and the Complainant, the disputed domain name carries a risk of implied affiliation with the Complainant, and can constitute neither a bona fide use nor a legitimate noncommercial or fair use of the disputed domain name. [WIPO Overview 3.0](#), section 2.5.1.

Finally, the Respondent's actions following notification of the UDRP proceedings - specifically, altering the website content to display dubious and irrelevant material - further demonstrate a lack of legitimate interest. These actions reinforce the conclusion that the Respondent's use of the disputed domain name was not in connection with a legitimate commercial activity but rather an attempt to impersonate the Complainant.

Panels have consistently held that the use of a domain name for illegitimate activity, here, 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 this case, the Panel observes that the Complainant's PHOENIX CONTACT trademark registrations substantially predate the Respondent's registration of the disputed domain name. Additionally, the use of the disputed domain name at the time the Complaint was filed - such as offering products under the Complainant's trademark, displaying the Complainant's company contact details, and incorporating the Complainant's trademarks and logo on the website - indicates that the Respondent was clearly aware of the Complainant's business and trademarks when registering and using the disputed domain name.

Moreover, the screen captures of the web pages submitted with the Complaint show that the Respondent's website neither discloses the Respondent's identity, nor does it clarify that there is no relationship between the Respondent and the Complainant. Instead, the content misleads the public into believing that the website is owned by, connected to, or endorsed by the Complainant.

Such intentional use of the disputed domain name in an attempt to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website and the coupons purported to be offered by the Respondent, constitutes use of the disputed domain name in bad faith for the purposes of the Policy. [WIPO Overview 3.0](#), section 3.1.4.

Panels have also held that the use of a domain name for illegal activity here, impersonation/passing off, or other types of fraud constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

In this context, the Panel also notes the significance of the fact that the Center did not receive any response from the Respondent and that the Respondent changed the content of the website linked to the disputed domain name to display content unrelated to the Complainant's trademarks or business, yet whose

authenticity and veracity are highly questionable. All of these elements suggest that the Respondent registered and used the disputed domain name in bad faith.

The Panel concludes that, in the circumstances of this case, the Respondent's registration and use of the disputed domain name constitute bad faith.

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 <phoenixcontact.pro> be transferred to the Complainant.

/Alissia Shchichka/

Alissia Shchichka

Sole Panelist

Date: December 23, 2024