

ADMINISTRATIVE PANEL DECISION

Connectwise, LLC v. Veniamin Kalegin
Case No. DAI2023-0016

1. The Parties

The Complainant is Connectwise, LLC, United States of America (“United States”), represented by Foley & Lardner, United States.

The Respondent is Veniamin Kalegin, United States.

2. The Domain Name and Registrar

The disputed domain name <connectwise.ai> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 21, 2023. On July 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 24, 2023, 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, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 28, 2023, 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 2, 2023.

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 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 24, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 29, 2023.

The Center appointed Evan D. Brown as the sole panelist in this matter on September 1, 2023. 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 in the business of providing IT software and related services. It owns the mark CONNECTWISE for which it enjoys the benefits of registration (e.g., United States Reg. No. 4234084, registered on October 30, 2012).

The Complainant asserts that the Respondent was an employee of the Complainant from December 30, 2016 until July 8, 2020. The Whois records show the disputed domain name was registered during this range of time - on September 27, 2019. During the time of the Respondent's employment, according to the Complainant, the Respondent was bound by a Confidentiality Agreement, Inventions, and Covenant Not-To-Compete document (the "Confidentiality Agreement") that stated, among other things, that "[d]uring [the Respondent's] employment with the [Complainant], [the Respondent] shall not directly or indirectly engage or participate in any business that is in competition in any manner whatsoever with the business of the [Complainant] or take steps to do so."

At the time of the filing of the Complaint, the disputed domain name resolved to a parked page featuring the words "connectwise.ai" fixed on a blue background.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant's trademark; that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (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. The Panel finds that all three of these elements have been met in this case.

A. Identical or Confusingly Similar

This first element functions primarily as a standing requirement. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7. This element requires the Panel to consider two issues: first, whether the Complainant has rights in a relevant mark; and second, whether the disputed domain name is identical or confusingly similar to that mark.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. See *Advance Magazine Publishers Inc., Les Publications Conde*

Nast S.A. v. Voguechen, WIPO Case No. [D2014-0657](#). The Complainant has demonstrated its rights in the CONNECTWISE mark by providing evidence of its trademark registrations.

The disputed domain name incorporates the CONNECTWISE mark in its entirety. For purposes of the Policy, it is identical to the CONNECTWISE mark.

Accordingly, the Panel finds that the Complainant has established this first element under the Policy.

B. Rights or Legitimate Interests

The Panel evaluates this element of the Policy by first looking to see whether the Complainant has made a *prima facie* showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainant makes that showing, the burden of production of demonstrating rights or legitimate interests shifts to the Respondent (with the burden of proof always remaining with the Complainant). See [WIPO Overview 3.0](#), section 2.1; *AXA SA v. Huade Wang*, WIPO Case No. [D2022-1289](#).

On this point, the Complainant asserts, among other things, that: (1) the Respondent is not a licensee of the Complainant nor is the Respondent otherwise authorized to use the Complainant's CONNECTWISE mark for any purpose, (2) the Respondent is not commonly known by the disputed domain name, and (3) the Respondent does not use and has not made preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services.

The Panel finds that the Complainant has made the required *prima facie* showing. The Respondent has not presented evidence to overcome this *prima facie* showing. And nothing in the record otherwise tilts the balance in the Respondent's favor.

Accordingly, the Panel finds that the Complainant has established this second element under the Policy.

C. Registered and Used in Bad Faith

In the absence of a response from the Respondent to the Complaint, the Panel is guided solely by the information presented by the Complainant. Based on this, it is evident that at the time of registering the disputed domain name, when the Respondent was an employee of the Company, the Respondent likely knew of the Complainant's exclusive rights in the CONNECTWISE mark and accordingly the rights of the Complainant in the identical disputed domain name. Furthermore, given the Respondent's awareness of the Complainant's intellectual property rights at the time of registration, his act of registering the identical disputed domain name is tantamount to an assertion of rights in the disputed domain name. Given the known rights of the Complainant, this is in the nature of a misrepresentation on the part of the Respondent. Such a misleading act is indicative of bad faith registration. Moreover, the Respondent agreed in the Confidentiality Agreement to not compete with the Complainant or take steps in that direction. Registering the disputed domain name is such a step in that direction and indicates bad faith.

As for bad faith use of the disputed domain name, the Panel notes that from the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. While panelists will look at the totality of the circumstances in each case, among the factors that have been considered relevant in applying the passive holding doctrine are the implausibility of any good faith use to which the domain name may be put. *Id.* As discussed in the preceding paragraph, the Panel finds that the Respondent must have known of the Complainant's rights to the disputed domain name when he registered it in the Respondent's own name. The Panel cannot conjure any potential good faith use of the disputed domain name that the Respondent could have made, especially since he had agreed by contract not to compete with the Complainant.

Accordingly, the Panel finds that this third element under the Policy has been met.

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 <connectwise.ai> be transferred to the Complainant.

/Evan D. Brown/

Evan D. Brown

Sole Panelist

Date: September 18, 2023