

ADMINISTRATIVE PANEL DECISION

CWI, Inc. v. Jaehun Song
Case No. D2022-0233

1. The Parties

The Complainant is CWI, Inc., United States of America, represented by Neal & McDevitt, United States of America (“United States”).

The Respondent is Jaehun Song, Republic of Korea.

2. The Domain Name and Registrar

The disputed domain name <camping-world.website> 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 January 24, 2022. On January 25, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 26, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. The Center sent an email communication to the Complainant on January 26, 2022 providing the registrant and contact information disclosed by the Registrar.

The Center verified that 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 February 14, 2022. On February 18, 2022, the Respondent sent an email communication to the Center, indicating that it had received the Written Notice, and asking for clarification on the nature of the proceedings. On February 18, 2022, the Center replied to the Respondent’s communication. On February 19, 2022, the Respondent sent an email communication to the Center, attaching the Written Notice, and explaining that it runs a camping blog site. On February 21, 2022, the Center sent an email to the Respondent explaining the proceedings, and giving detailed information on how to respond to the Complaint.

In accordance with the Rules, paragraph 5, the due date for Response was March 6, 2022. An informal Response was filed with the Center on February 22, 2022.

The Center appointed Reyes Campello Estebaranz as the sole panelist in this matter on March 8, 2022. 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 operates a business offering a broad range of products and services in the recreational vehicle and camping industries, including recreational vehicle (“RV”) sales, RV equipment and accessories, and RV service centers, both directly and indirectly, through a network of licensees and related entities, in the United States. The Complainant further operates online through its website “www.campingworld.com”. Per the Complaint, since the Complainant’s business inception in the mid-1960’s, it has grown to over 190 retail and service locations in North America, currently employing more than 12,000 people, and serving more than 4 million customers, and it has used the CAMPING WORLD trademark in the United States since at least 1968.

The Complainant owns various trademark registrations for the CAMPING WORLD mark, alone or in combination with a design (consisting of a landscape including three mountain peaks, two trees and a path within a semicircle, in black and white), including the following:

- United States Trademark Registration No. 930,179, CAMPING WORLD, word, registered on February 29, 1972, in Class 42;
- United States Trademark Registration No. 4,532,411, CAMPING WORLD, figurative, registered on May 20, 2014, in Classes 35 37, and 39;
- United States Trademark Registration No. 4,536,315, CAMPING WORLD, figurative, registered on May 27, 2014, in Classes 35 37, and 39; and
- United States Trademark Registration No. 4,536,313, CAMPING WORLD, word, registered on May 27, 2014, in Classes 35 37, and 39, (collectively the “CAMPING WORLD mark”).

The Complainant further owns various domain names comprising its CAMPING WORLD mark, including <campingworld.ca> (registered on April 9, 2003), and <campingworld.com> (registered on May 28, 1996).

The disputed domain name was registered on November 4, 2021, and resolves to an active website in various languages (English, French, Dutch, German, Italian, Japanese, and Korean), which offers promotional information and retail sale of various products in the recreational vehicle and camping industries. The offered products come from and are offered for sale over the Amazon platform, including links to the Amazon retail sales platform for the respective products. This website includes in the right side of its heading the words “camping world” preceded by a logo in color consisting of a landscape including three mountain peaks and two trees, as well as a camping tent, all within a semicircle. This website does not include any information about the owner of the site or that of the disputed domain name, or any contact details, except various links to social media pages.

On January 11, 2022, the Complainant submitted a trademark infringement report to the Registrar regarding the disputed domain name. The Registrar refused to take any action against the use of the disputed domain name by the Respondent.

5. Parties' Contentions

A. Complainant

Key contentions of the Complaint may be summarized as follows:

Given the extensive and continuous use of the Complainant's CAMPING WORLD mark, it has become distinctive, well-known and famous in the recreational vehicle and camping industries in the United States.

The disputed domain name is identical to the CAMPING WORLD mark. The disputed domain name incorporates the CAMPING WORLD mark in its entirety, plus the generic Top-Level Domain ("gTLD") ".website" and the Respondent's website reproduces a logo intentionally similar to the Complainant's logo at the top of the site, trying to impersonate the Complainant and confuse Internet users, in an attempt to capitalize and trade off the Complainant's goodwill in the CAMPING WORLD mark. Such unauthorized use of CAMPING WORLD mark in connection with the sale of identical goods and services offered by the Complainant demonstrates the Respondent's intent to mislead consumers, generating a likelihood of affiliation with the Complainant in violation of the Complainant's prior rights.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. There is no evidence that demonstrates the Respondent has been commonly known by the terms "camping world" or acquired any trademark in the same. The Whois data related to the disputed domain name does not list a name of the organization for Respondent, and the Respondent's website does not contain any contact information or reference within the website's Terms of Service, Privacy Policy, etc. to a legitimate business entity named "Camping World". The Complainant has never authorized the use of its trademarks by the Respondent. The Respondent has intentionally replicated the Complainant's trademark in an attempt to mislead consumers into thinking that the Respondent's website is operated or affiliated with the Complainant, trading off the CAMPING WORLD mark for a commercial gain. The use of a domain name for illegal activity, such as impersonation/passing off, or other types of fraud, can never confer rights or legitimate interests on a respondent.

The disputed domain name was registered and is being used in bad faith. Given the reputation of the Complainant and its CAMPING WORLD mark, the Respondent acted with opportunistic bad faith as the Internet users can easily associate the disputed domain name with the Complainant's domain names (<campingworld.com> and <campingworld.ca>). It is clear from the content of the Respondent's website that the Respondent is attempting to impersonate the Complainant to attract Internet users to a competing business by creating a likelihood of confusion. The Respondent conduct implies active and ongoing acts of fraud, deceptive trade practices, trademark infringement, and unfair competition.

The Complainant has cited previous decisions under the Policy and various sections of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") that it considers supportive of its position, and requests the transfer of the disputed domain name.

B. Respondent

The Respondent forwarded various email communications to the Center, which may be considered an informal Response to the Complainant's contentions.

Key contentions of the Response may be summarized as follows:

The Respondent legally purchased the disputed domain name on a site called Bluehost, duly paying for it, and the Complainant did not own it.

The disputed domain name is not related to any brand name, and it is used in good faith in connection to a blog website related to camping.

The Respondent does not understand why this proceeding was started, indicating that he checked and purchased a normal empty (or unused) domain name, and the Respondent is operating it without any problem. The Respondent paid for an unused domain following a normal procedure, and he is using it without any problems, “there was no illegal disturbance and that there was no possibility of dispute”.

The Respondent provides no evidence in support of his allegations.

6. Discussion and Findings

The Complainant has made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material, and allegations, and performing some limited independent research under the general powers of the Panel articulated, *inter alia*, in paragraph 10 of the Rules.

A. Identical or Confusingly Similar

The Complainant indisputably has rights in the CAMPING WORLD mark, both by virtue of its trademark registrations and as a result of its continuous use of this trademark in the recreational vehicle and camping industries in the United States.

The disputed domain name incorporates the CAMPING WORLD mark in its entirety, separating its terms (“camping” and “world”) with a hyphen, and adding the gTLD “website”. The Complainant’s trademark is recognizable in the disputed domain name and the gTLD “.website” is a technical requirement, generally disregarded for the purpose of the analysis of the confusing similarity. See sections 1.7, 1.8, and 1.11 of the [WIPO Overview 3.0](#).

Accordingly, this Panel finds that the disputed domain name is identical or almost identical to the Complainant’s trademark, and the first element of the Policy under paragraph 4(a)(i) has been satisfied.

B. Rights or Legitimate Interests

Although the Complainant bears the ultimate burden of establishing all three elements of paragraph 4(a) of the Policy, UDRP panels have recognized that demonstrating a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of proving a negative, requiring information that is primarily if not exclusively within the respondent’s knowledge. Thus, the consensus view is that paragraph 4(c) of the Policy shifts to the respondent the burden of production to come forward with relevant evidence of rights or legitimate interests in the disputed domain name, once the complainant has made a *prima facie* case that the respondent lacks rights or legitimate interests.

The Complainant’s assertions and evidence in this case effectively shift the burden of production to the Respondent of producing evidence of rights or legitimate interests in the disputed domain name, providing the circumstances of paragraph 4(c) of the Policy, without limitation, in order to rebut the Complainant’s *prima facie* case.

The Respondent has alleged that he legally purchased the disputed domain name and uses it in good faith in connection to a blog website related to camping. The Panel notes, however, that while the Respondent’s website contains information related to camping, it is rather primarily geared toward products commercialized over the Amazon platform.

The Respondent has further alleged that the disputed domain name “is not related to any brand name”, which may be interpreted as an allusion to the nature of the words “camping” and “world”, which are terms included in the dictionary.

That is true, and panels have recognized that registering a domain name comprised of a dictionary word or phrase may confer rights or legitimate interests on the respondent, when the domain name is not used to trade off third-party trademark rights. See section 2.10 of the [WIPO Overview 3.0](#).

In the present case, the Panel notes that the disputed domain name resolves to a website that promotes and offers for sale (through various links to the Amazon platform), products which compete with the Complainant's products.

The said products are in the broadest sense related to the meaning of the term "camping". However, various circumstances of this case point to an intent to trade off the Complainant's prior rights. Particularly, the registration and use of a domain name that exactly reproduces (adding only a hyphen) the Complainant's mark plus the fact that the Respondent's website includes (at the right side of its heading) a very similar logo to the Complainant's logo, featuring almost identical elements (including three mountain peaks and two trees within a semicircle) in color. The panel also notes the lack of any information in the Respondent's website about the owner of the site or that of the disputed domain name.

These circumstances lead the Panel to consider that the disputed domain name is intended to trade off of the Complainant's business trademark rights.

It is further to be noted that the disputed domain name incorporates the CAMPING WORLD mark in its entirety, adding a hyphen and the gTLD ".website", generating an implied affiliation (and risk of confusion) with the Complainant and its trademark, giving the impression that the disputed domain name may be referred to a new website owned and/or operated by the Complainant or by any business related company.

All the above-mentioned circumstances lead the Panel to conclude that the Respondent has not rebutted the Complainant's *prima facie* case, and the second element of the Policy under paragraph 4(a)(ii) has been established.

C. Registered and Used in Bad Faith

The Policy, paragraph 4(a)(iii), requires that the Complainant establish that the disputed domain name has been registered and is being used in bad faith.

The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", being the Panel prepared to draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, [WIPO Overview 3.0](#).

The Panel notes the continuous and extensive use of the CAMPING WORLD mark and its presence over the Internet since at least January 28, 1997, being the Complainant's business globally promoted over the Internet, and particularly in the United States. The Panel, under its general powers, has consulted the Internet web archive WayBackMachine regarding the Complainant's website "www.campingworld.com".

The strong presence of the Complainant's trademark over the Internet makes unlikely, in view of the Panel, that the Respondent was not aware of the Complainant and its trademark in circumstances that a simple web search for the terms "camping world" on any search engine would have brought them up. Furthermore, the Respondent operates (under the disputed domain name) a website related to camping, providing information and advice about products and services in this market sector, which supports the conclusion that the Respondent, being a player in this field, was aware of the Complainant and its trademark.

The Panel further notes that Respondent has registered the disputed domain name many years after the Complainant registered the CAMPING WORLD mark for the first time and started using it for its business. The disputed domain name is almost identical to the CAMPING WORLD trademark and has been used for a website that has offered competing similar goods to those of the Complainant, including links to competing products commercialized over the Amazon platform, and displaying a logo almost identical to the Complainant's logo (but in color).

Taking all the above circumstances into account, and in the absence of any evidence to the contrary, the Panel is satisfied that it is more likely than not that the Respondent was aware of the Complainant's CAMPING WORLD mark and of its goodwill in the field of recreational vehicles, camping gear, and related products, when it registered the disputed domain name.

The Panel concludes that the Respondent has registered and used the disputed domain name in an attempt to exploit the goodwill of the Complainant and of its trademark for confusing Internet users that the Respondent's website and the goods offered on it are related to the Complainant, disrupting the Complainant's business. All circumstances in this case indicate that the Respondent has intentionally attempt to mislead third parties, in order to generate traffic to his website with a commercial purpose and to compete with the Complainant.

In light of the above, taking into consideration all cumulative circumstances of this case, on the balance of probabilities, the Panel concludes that the Complainant has met its burden of establishing that the disputed domain name has been registered and is being used in bad faith under paragraph 4(a)(iii) 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, <camping-world.website> be transferred to the Complainant.

/Reyes Campello Estebaranz/

Reyes Campello Estebaranz

Sole Panelist

Date: March 22, 2022