

ADMINISTRATIVE PANEL DECISION

Intertrust Group B. V. v. nsk9999, 王晖强王
Case No. D2022- 4095

1. The Parties

The Complainant is Intertrust Group B. V., Netherlands, represented by Merkenbureau Knijff & Partners B.V., Netherlands.

The Respondent is nsk9999, 王晖强王, China.

2. The Domain Name and Registrar

The disputed domain name <interturstgroup.com> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 31, 2022. On October 31, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 1, 2022, 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 (See PrivacyGuardian.org) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 1, 2022, 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 1, 2022.

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 3, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 23, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 24, 2022.

The Center appointed Jonathan Agmon as the sole panelist in this matter on December 2, 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 is a publicly traded international trust and corporate management company based in Amsterdam, Netherlands. The Complainant is known for its fiduciary services, which includes tax, trust, business management and outsourcing processes. It is the largest trust office in the Netherlands. The Complainant's origins date back to the incorporation of NV Trust Corporation Pierson, Helderling & Pierson in 1952. The Complainant has locations in North America, South America, Europe, Asia, and the Middle East. The Complainant is listed on Euronext Amsterdam Stock Exchange.

The Complainant is the owner of the INTERTRUST word and figurative trademarks worldwide, including but not limited to:

- Benelux Trademark Registration No. 467460 for INTERTRUST, registered on May 1, 1990;
- Benelux Trademark Registration No. 1411968 for  intertrust , registered on May 19, 2020; and
- International Trademark Registration No. 1411968 for  intertrust , registered on May 19, 2020.

The Complainant also states it owns the registered domain name <intertrustgroup.com> since October 22, 1998.

The disputed domain name <interturstgroup.com> was registered on March 11, 2022, and resolved to an active website displaying pornography content.

5. Parties' Contentions

A. Complainant

The Complainant argues that the disputed domain name is confusingly similar to the Complainant's registered INTERTRUST mark as the disputed domain name comprises of a misspelled INTERTRUST mark and the generic Top-Level Domain ("gTLD") ".com".

The Complainant also argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name as it has not licensed or permitted the Respondent to use any of its trademarks or register the disputed domain name. The Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services and is not making a legitimate noncommercial or fair use of the disputed domain name.

The Complainant further argues that the disputed domain name was registered and is being used in bad faith as it contains pornographic content.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. Although the Complainant's figurative trade mark features a design element on the left of the "intertrust" word, it is well-established in earlier UDRP panel decisions that "these [stylized] elements are largely disregarded for purposes of assessing identity or confusing similarity under the first element [of the Policy]. [...] On this basis, trademark registrations with design elements would *prima facie* satisfy the requirement that the complainant show 'rights in a mark' for further assessment as to confusing similarity" (See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.10). Moreover, the Complainant also owns trade mark registrations for the word mark INTERTRUST, without figurative elements.

It is also well-established that a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element (see [WIPO Overview 3.0](#), section 1.9). The disputed domain name is a clear misspelling of the Complainant's INTERTRUST mark and typosquatting attempt by the Respondent.

Further, it is well established that the addition of a gTLD ".com" does not avoid confusing similarity between the Complainant's trademark and the disputed domain name (see [WIPO Overview 3.0](#), section 1.11.1).

Consequently, the Panel finds that the Complainant has shown that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

Once the complainant establishes a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the disputed domain name (see [WIPO Overview 3.0](#), section 2.1).

In the present case, the Complainant has demonstrated *prima facie* that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and the Respondent has failed to assert any such rights or legitimate interests.

The Complainant has provided evidence that it owns trademark registrations of the INTERTRUST mark long before the date that the disputed domain name was registered and that it is not affiliated with nor has it licensed or otherwise permitted the Respondent to use the Complainant's trademark (see *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*, WIPO Case No. [D2010-0138](#)).

The Complainant also provided evidence that the Respondent is not commonly known by the disputed domain name (see [WIPO Overview 3.0](#), section 2.3).

Further, the Respondent did not submit a Response in the present case and did not provide any explanation or evidence to show rights or legitimate interests in the disputed domain name which would be sufficient to rebut the Complainant's *prima facie* case.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The complainant must also show that the respondent registered and is using the disputed domain name in bad faith (see Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy.

The Complainant has submitted evidence showing that the disputed domain name resolved to a website containing pornographic content. It is well-established that the use of a domain name that corresponds to

another's mark, for posting of pornographic content and/or related services, typically constitutes evidence of bad faith registration and use of a domain name (see *Coral Trademarks, Ltd. v. Eastern Net, Inc.*, WIPO Case No. [D2000-1295](#) ("The posting of pornographic contents on a web site under a domain name that corresponds to a third party's mark is a bad faith use of a domain name"); *America Online, Inc. v. Viper*, WIPO Case No. [D2000-1198](#) ("The use of AOL as part of a domain name offering pornographic products and services certainly 'tarnishes' Complainant's existing marks, which is also evidence of bad faith"); *Valor Econômico S.A. v. Daniel Allende*, WIPO Case No. [D2001-0523](#) ("Complainant has proved that Respondent linked the <valoreconomico.net> web page to adult content or pornographic sites. This is a typical bad faith use of the domain name."); *ABB Asea Brown Boveri Ltd. v. Quicknet*, WIPO Case No. [D2003-0215](#) ("The use of ABB as part of a domain name offering pornographic material certainly tarnishes the Complainant's existing marks, which is also evidence of bad faith."). Similarly, the Panel finds that the use of the disputed domain name in the present case constitutes evidence of bad faith registration and use of the disputed domain name.

Further, the disputed domain name incorporates a typosquatting variation of the Complainant's INTERTRUST mark (only rearranging two letters in the mark) which the Panel finds is an attempt by the Respondent to confuse and/or mislead Internet users seeking or expecting the Complainant. Previous UDRP panels ruled that in such circumstances "a likelihood of confusion is presumed, and such confusion will inevitably result in the diversion of Internet traffic from the Complainant's site to the Respondent's site" (see *Edmunds.com, Inc v. Triple E Holdings Limited*, WIPO Case No. [D2006-1095](#)). To this end, prior UDRP panels have established that attracting Internet traffic by using a domain name that is identical or confusingly similar to create a likelihood of confusion with a registered trademark may be evidence of bad faith under paragraph 4(b)(iv) of the UDRP. Further, the Complainant submitted evidence that INTERTRUST is a well-recognized trademark. Given the evidence presented to the Panel, the Panel finds that it is highly likely that the Respondent was aware of the Complainant at the time of registering the disputed domain name and specifically targeted the Complainant and its goodwill.

In addition, the Respondent did not submit a Response in this proceeding. Under the circumstances of this case, this is an additional indication of the Respondent's bad faith, which was considered by the Panel.

Accordingly, given the particular circumstances of this case and the reputation of the trademark, based on the balance and the evidence presented to the Panel, including the registration of the disputed domain name long after the registration of the Complainant's trademark, the typosquatting nature of the disputed domain name and confusing similarity with the Complainant's trademark, the Respondent's use of the disputed domain name and the failure of the Respondent to submit a response, and the fact that there is no plausible good faith use the Respondent can put the disputed domain name to, the Panel draws the inference that the disputed domain name was registered and is being used in bad faith.

Accordingly, having regard to the circumstances of this particular case, the Panel finds that the Complainant has met its burden 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, <interturstgroup.com>, be transferred to the Complainant.

/Jonathan Agmon/

Jonathan Agmon

Sole Panelist

Date: December 22, 2022