

ADMINISTRATIVE PANEL DECISION

Fitch Ratings, Inc. v. Quaglioz Kristen

Case No. D2022-4603

1. The Parties

The Complainant is Fitch Ratings, Inc., United States of America (“United States”), represented by Maureen Walsh Sheehan, United States.

The Respondent is Quaglioz Kristen, United States.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 1, 2022. On December 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 2, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 15, 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 amendment to the Complaint on December 20, 2022.

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 December 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 17, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 19, 2023.

The Center appointed William F. Hamilton as the sole panelist in this matter on January 24, 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 a venerable, renown international credit rating agency.

The Complainant owns and utilize the domain name <fitchratings.com> for its principal website.

The Complainant owns nearly 30 registrations in jurisdictions around the world for the marks FITCH and FITCH RATINGS (the "Mark") including Registration No. 2669307 with the United States Patent and Trademark Office dated December 31, 2002 in International Class 36.

The disputed domain name was registered on February 27, 2022. The disputed domain name currently resolves to a large warning page stating:

"! Warning: Suspected Phishing Site Ahead
This link has been flagged as phishing. We suggest you avoid it."

5. Parties' Contentions

A. Complainant

The Complainant asserts the disputed domain name is confusingly similar to the Mark because the disputed domain name contains the salient recognizable component of the Mark followed by a country name.

The Complainant asserts that the Complainant never authorized the Respondent to use the disputed domain name, that the Respondent is not generally known by the disputed domain name, that the Respondent has never engaged in any *bona fide* commercial activity in connection with the disputed domain name, and that the disputed domain has been used in connection with a phishing website.

The Complainant asserts the Respondent's phishing website establishes bad faith registration and use.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel 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 was registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that the disputed domain name is confusingly similar to the Complainant's Mark.

The disputed domain name is composed with the highly recognizable and distinctive component of the Complainant's Mark, namely FITCH, plus the suffix "taiwan". The mere addition to the Mark of a country name does not avoid a finding of confusing similarity. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.8 ("where the relevant trademark is recognizable with the disputed domain name, the additions of other terms (whether descriptive, geographic, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element").

B. Rights or Legitimate Interests

The Panel finds that the Respondent has no rights to or legitimate interests in the disputed domain name.

The Complainant has specifically disavowed providing the Respondent with permission to use the disputed domain name or the Mark. The Respondent is not affiliated with the Complainant and does not have any business relationship with the Complainant. There is no evidence that the Respondent has conducted any *bona fide* business under the disputed domain name or is commonly known by the disputed domain name.

The Complainant has thus established a *prima facie* case in its favor, which shifts the burden of production on this point to the Respondent. The Respondent, however, has failed to come forth with any evidence showing any rights or legitimate interests in the disputed domain name.

Furthermore, the nature of the disputed domain name, which unabashedly adopts the most distinguishing component of the Mark carries a risk that any Internet user would assume the disputed domain name resolves to a website sponsored or affiliated with the Complainant. [WIPO Overview 3.0](#), section 2.5.1. Moreover, rights or legitimate use of the disputed domain name cannot be established by fraudulent phishing conduct associated with the disputed domain name. The use of a domain name for illegal activity, such as phishing, unauthorized account access/hacking, impersonation/passing off, or other types of fraud, can never confer rights or legitimate interests on a respondent. See section 2.13, [WIPO Overview 3.0](#).

The facts and circumstances presented to the Panel demonstrate that the Respondent does not have any rights or legitimate interests in the disputed domain name.

The Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under paragraph 4(b) of the Policy, bad faith may be established by any one of the following scenarios:

- (i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

The Panel finds the disputed domain name was registered and is being used in bad faith.

The Complainant has submitted evidence showing that the disputed domain name was utilized in connection with a phishing activity. The disputed domain name resolved to a single web page requesting the website visitor-- possibly a genuine customer of the Complainant -- to "register" by providing information regarding the visitor's account with the Complainant. See amended Complaint, Paragraph 12(b). Such improper use of a domain name is paradigmatic evidence of bad faith. *National Westminster Bank plc. v. Sites / Michael Vetter*, WIPO Case No. [D2013-0870](#) (phishing constitutes bad faith use). Prior UDRP panels have held that "given that the use of a domain name for per se illegitimate activity such as the sale of counterfeit goods or phishing can never confer rights or legitimate interests on a respondent, such behavior is manifestly considered evidence of bad faith". See section 2.13, [WIPO Overview 3.0](#).

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 <fitchtaiwan.com> be transferred to the Complainant.

/William F. Hamilton/

William F. Hamilton

Sole Panelist

Date: February 7, 2023