

## ADMINISTRATIVE PANEL DECISION

Hartford Fire Insurance Company v. Hes Theses  
Case No. D2023-0523

### 1. The Parties

The Complainant is Hartford Fire Insurance Company, United States of America (“United States”), represented by Fross Zelnick Lehrman & Zissu, PC, United States.

The Respondent is Hes Theses, United States.

### 2. The Domain Name and Registrar

The disputed domain name <thahertford.com> (“Domain Name”) is registered with Google LLC (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 3, 2023. On February 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 6, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name that differed from the named Respondent (Contact Privacy, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 7, 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 February 7, 2023.

The Center verified that the Complaint and 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 February 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 2, 2023. The Respondent did not submit a response. Accordingly, the Center notified the Respondent’s default on March 6, 2023.

The Center appointed A. Justin Ourso III as the Panelist in this matter on March 13, 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, an American company, is a provider of life insurance, automobile and homeowners insurance, business insurance and reinsurance, group and employee benefits, and investment products through independent agents and brokers, financial institutions, and affinity groups, and via the Internet in the United States and worldwide under its trade name "The Hartford" and under its trademarks THE HARTFORD, THE HARTFORD + "stag" design, and related marks.

The Complainant owns a United States trademark registration issued on May 19, 1981, No. 1,155,051, for its THE HARTFORD mark in Class 36 for insurance underwriting services and another United States registration issued on October 14, 1997, No. 2,105,608, for its composite figurative mark THE HARTFORD + "stag" design in Class 36 for insurance underwriting services for all types of insurance (the "Design Mark"). The Complainant also owns other United States registrations and scores of international registrations for these marks.

The Complainant registered the domain name <thehartford.com> on June 11, 1995, which it uses for its primary public-facing web site at "www.thehartford.com".

The Respondent registered the Domain Name <thahertford.com> on January 19, 2023, more than 40 years after the Complainant registered its THE HARTFORD mark and over 25 years after the Complainant registered its domain name.

The Domain Name does not resolve to a functioning web site. The Respondent used the Domain Name on January 20, 2023, to send a series of emails to a customer of the Complainant impersonating an employee of the Complainant and requesting that the customer wire funds to a bank account to pay certain insurance premiums to the Complainant. The emails impersonating the employee contained a signature block with the Complainant's Design Mark and a letter attachment with wire instructions whose letterhead contained the Design Mark.

#### **5. Parties' Contentions**

##### **A. Complainant**

In addition to facts set forth in the Factual Background in Part 4 above, the Complainant contends the following.

Regarding the element of confusing similarity with a trademark in which it has rights, the Complainant contends that the Domain Name is confusingly similar to its trademark THE HARTFORD, in which it has longstanding rights, because the Domain Name contains the trademark in its entirety and the transposition of the letters "e" and "a" do not prevent a finding of confusing similarity, but intends to take advantage of a common misspelling of the Complainant's trademark, which is typosquatting, and that the generic Top-Level Domain ".com" is not considered when assessing confusing similarity.

Regarding the element of no rights or legitimate interests in the Domain Name, the Complainant contends that it has had no relationship with the Respondent; the Complainant's extensive use of its trademarks and its use of its domain name and web site long predate the Respondent's registration of the Domain Name; the Complainant has not authorized the Respondent to use any of its trademarks; the Respondent is not identified with the Domain Name or commonly known by the Domain Name; and the Respondent's only use of the Domain Name has been to send fraudulent emails to "vendors" [customers] of the Complainant to

divert payment from the Complainant to the Respondent, which is neither a *bona fide* offering of goods or services nor a legitimate interest.

Regarding the element of bad faith registration and use of the Domain Name, the Complainant contends that the Respondent has engaged in opportunistic bad faith use and registration; Internet users are likely to assume that the web site associated with the Domain Name is owned, controlled, or approved by the Complainant; the use of the Complainant's marks demonstrates that the Respondent was aware of the Complainant and its rights in its marks and is using the Domain Name to mislead persons in a fraudulent scheme; the Respondent is using the Domain Name intentionally to attempt to attract, for commercial gain, Internet users to a website by creating a likelihood of confusion as to the source, sponsorship, affiliation or endorsement of the site, which is evidence of bad faith registration and use; and the web site associated with the Domain Name being inactive further supports a finding of bad faith.

The Complainant requested transfer of the Domain Name.

## **B. Respondent**

The Respondent did not submit a response to the Complaint.

## **6. Discussion and Findings**

### **A. The Effect of the Respondent's Default**

If a respondent does not submit a response to a complaint, a panel decides the dispute based upon the complaint. Rules, paragraphs 5(f) and 14(a). Because the Complainant has the burden of proof, Policy, paragraph 4(a), the Complainant must still prove the elements of a claim to obtain the requested relief, notwithstanding the Respondent's default. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3.

In the absence of exceptional circumstances, a respondent's failure to respond to a complaint requires that a panel draw the inferences from this failure that it considers proper. Rules, paragraph 14(b). The Panel finds that no exceptional circumstances exist for the failure of the Respondent to submit a response. Accordingly, the Panel infers that the Respondent does not deny the facts alleged and the contentions urged by the Complainant based upon these facts, and will draw all reasonable inferences that are proper from the evidence and the facts found by the Panel. *Id.*

Although the Panel may draw negative inferences from the Respondent's default, the Complainant may not rely on conclusory allegations and must support its allegations with evidence to prove the three elements. *Id.*

## **B. Elements of a Claim**

A complainant must prove three elements to obtain relief: (i) the domain name is identical or confusingly similar to a trademark in which the complainant has rights; (ii) the respondent has no rights or legitimate interests in the domain name; and (iii) the respondent registered and is using the domain name in bad faith. Policy, paragraph 4(a).

### **(i). Identical or Confusingly Similar**

On the first element, the Complainant must prove that (1) it has rights in a trademark, and (2) the Domain Name is identical or confusingly similar to this trademark. Policy, paragraph 4(a)(i).

The Panel finds that the Domain Name is confusingly similar to the Complainant's THE HARTFORD trademark, in which it has longstanding rights. The Domain Name incorporates the entire trademark, and the

trademark is readily recognizable within the Domain Name, notwithstanding the transposition of the letters “e” and “a.” [WIPO Overview 3.0](#), sections 1.7 and 1.9.

Accordingly, the Panel concludes that the Complainant has proven the first element: the Domain Name is confusingly similar to a trademark in which it has rights.

### **(ii). Rights or Legitimate Interests**

The Complainant has made a *prima facie* showing that the Respondent lacks any rights or legitimate interests in the Domain Name under the Policy, paragraph 4(a)(ii), shifting the burden of production on the second element to the Respondent to come forward with relevant evidence proving rights or legitimate interests in the domain name. Rules, paragraphs 10(d) and 14(b); [WIPO Overview 3.0](#), sections 2.1, and 4.3. The Respondent has not submitted any evidence to rebut the *prima facie* showing.

Additionally, the Panel finds that the Registrar identified the Registrant as “Hes Theses” and provided an email address for the Registrant of “therese@[...].” neither of which resembles the Domain Name; the Complainant’s trademark rights precede the registration of the Domain Name; and no evidence exists of a *bona fide* commercial, noncommercial, or fair use of the Domain Name, which corroborate that the Respondent is not known by the Domain Name and is not using the Domain Name for a legitimate commercial, noncommercial, or fair use.

Accordingly, the Panel concludes that the Complainant has proven the second element: the Respondent lacks rights or legitimate interests in the Domain Name.

The Complainant has also alleged, in support of its contention that the Respondent lacks rights or legitimate interests in the Domain Name, a fraudulent email scheme impersonating the Complainant. [WIPO Overview 3.0](#), section 2.13. Because the Panel has already concluded that the Complainant has proven the second element, the Panel will defer a discussion of this alleged scheme to Part 6(B)(ii) below. [WIPO Overview 3.0](#), section 2.15.

### **(iii). Registered and Used in Bad Faith**

The Policy expressly provides that the four particular circumstances that it specifies as “evidence of the registration and use of a domain name in bad faith” are “without limitation”. Policy, paragraph 4(b). Panels have consistently found that “given that the use of a domain name for *per se* illegitimate activity such as [...] phishing can never confer rights or legitimate interests on a respondent, such behavior is manifestly considered evidence of bad faith” under the Policy, paragraph 4(a)(iii). [WIPO Overview 3.0](#), section 3.1.4. See [WIPO Overview 3.0](#), section 3.4. In the view of this Panel, deceptive conduct, including impersonation and phishing, is evidence of registration and use of a domain name in bad faith.

The Complainant has shown and the Panel finds that the Respondent has engaged in an email phishing scheme impersonating the Complainant and targeting one of the Complainant’s customers,<sup>1</sup> which is *per se* illegitimate activity and a bad faith use of the Domain Name. [WIPO Overview 3.0](#), sections 3.1.4 and 3.4. The Panel also finds that the Respondent enhanced its impersonation by using, in addition to the confusingly similar Domain Name, the Design Mark in at least one impersonating email and in the letterhead of a letter with wire instructions attached to one of the impersonating emails. This finding supports the Panel’s conclusion that the Respondent intentionally registered the Domain Name in bad faith to impersonate the Complainant and used it in bad faith to impersonate, taking unfair advantage of the Complainant’s trademark. [WIPO Overview 3.0](#), sections 3.1, 3.1.4, and 3.4.

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<sup>1</sup> The Complainant refers to the third-party target as a “vendor.” The Panel concludes that this reference to a “vendor” was a mistake, and that the Complainant intended to refer to the target as a “customer,” because the scheme attempted to have the third party wire a premium payment to the Respondent. A vendor would not typically pay its customer, but an insurance company’s customer would typically pay insurance premiums to the insurance company.

Additionally, it is common knowledge that owners of websites customarily use email addresses containing the domain name of a website in electronic mail communications. The use of a domain name that presents a likelihood of confusion with a trademark in emails that do not originate with the trademark owner presents a risk to the reputation of a trademark and its owner. *Darden Concepts, Inc. v. Michael Sarjoe, Wynn Resort*, Case No. [D2022-4848](#). With evidence of an impersonating email, the risk is present of additional deceptive or abusive emails. *Id.*

The Panel finds that the risk of deceptive emails associated with the Domain Name is another reasonable basis, given the evidence of impersonation and the failure of the Respondent to rebut impersonation, from which to infer bad faith use and that the Respondent's bad faith existed at the time of its registration of the Domain Name.

Accordingly, the Panel concludes that the Complainant has proven the third element: the Respondent registered and is using the Domain Name in bad faith.

## **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 Domain Name, <thahertford.com>, be transferred to the Complainant.

/A. Justin Ourso III/

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**Panelist**

Date: March 27, 2023