

ADMINISTRATIVE PANEL DECISION

Compass, Inc. v. Carlos Simoes, Fleet Enterprise
Case No. D2023-0641

1. The Parties

The Complainant is Compass, Inc., United States of America (“United States”), represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States.

The Respondent is Carlos Simoes, Fleet Enterprise, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <compass-housing.com> is registered with Whogohost Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 10, 2023. On February 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 14, 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 (Domain Admin, Privacy Protect, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 15, 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 amendment to the Complaint on February 16, 2023.

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 February 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 12, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 14, 2023.

The Center appointed John Swinson as the sole panelist in this matter on March 20, 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, a company listed on the New York Stock Exchange, is a large independent residential real estate brokerage business based in the United States. The Complainant was founded in 2012 and changed its name to Compass, Inc., on January 8, 2021.

The Complainant is a technology-enabled brokerage that provides a platform to empower its residential real estate agents to deliver their services to seller and buyer clients. The Complainant's agents are independent contractors who affiliate their real estate licenses with the Complainant, operating their businesses on the Complainant's platform and under the Complainant's brand. Through 2021, the Complainant's agents have represented either sellers or buyers in more than 500,000 real estate transactions.

The Complainant is the registrant of and uses the domain name <compass.com>.

The Complainant owns several trademark registrations for trademarks that include the word COMPASS including United States Registration No. 6,041,375 for COMPASS (registered April 28, 2020) for use in connection with housing and other services.

The Respondent did not file a Response, so little information is known about the Respondent.

The disputed domain name was registered on September 19, 2022.

At one time, the Respondent used the disputed domain name in connection with a website that purported to be for the Complainant. The Complainant sent a cease and desist email to the Respondent on December 8, 2022, but the Respondent did not reply.

At least two people were contacted by fraudsters claiming to be real estate brokers who had fake real estate agent profiles at a website using the disputed domain name.

The Respondent is not currently using the disputed domain name in connection with an active website.

5. Parties' Contentions

A. Complainant

In summary, the Complainant makes the following submissions:

The disputed domain name is confusingly similar to the Complainant's COMPASS trademark. The disputed domain name contains the entirety of the COMPASS trademark. The use of the word "housing" in the disputed domain name increases consumer confusion because the Complainant's services are associated with housing.

The Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the COMPASS trademark in any manner. To the Complainant's knowledge, the Respondent has never been commonly known by the disputed domain name and has never acquired any trademark rights in the disputed domain name.

The use of a domain name for illegal activity including impersonation of the Complainant can never confer rights or legitimate interests on a respondent. By using the disputed domain name in connection with a website that appears to be a website for, or otherwise associated with, the Complainant, the Respondent's actions are clearly not legitimate and clearly are misleading and, therefore, the Respondent cannot establish rights or legitimate interests.

It is implausible that the Respondent was unaware of the Complainant when registering the disputed domain name.

Because the disputed domain name is so obviously connected with the Complainant, the Respondent's actions suggest "opportunistic bad faith" in violation of the Policy. In light of the long history of the Complainant's trademarks and the Complainant's significant presence and brand recognition, it is likely that the Respondent knew of the Complainant's trademark and has sought to obtain a commercial benefit by attracting Internet users based on that confusion.

It is impossible to identify any good faith use to which the disputed domain name may be put.

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 enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (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 *onus* of proving these elements is on the Complainant.

Paragraph 15(a) of the Rules directs the Panel to decide the Complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy provides that the Complainant must establish that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

As set out in Section 4 above, the Complainant has registered trademarks for COMPASS.

Previous UDRP panels have consistently held that domain names are identical or confusingly similar to a trademark for purposes of the Policy when the domain name includes the trademark, or a confusingly similar approximation, disregarding the Top-Level Domain part of the domain name (*e.g.*, disregarding the ".com" part of the domain name.)

Here, the disputed domain name includes the COMPASS registered trademark in its entirety. The addition of the word "housing" and the addition of a dash, do not prevent a finding that the disputed domain name is confusingly similar to the Complainant's COMPASS registered trademark.

The Complainant succeeds on the first element of the Policy.

B. Rights or Legitimate Interests

The Complainant's allegations to support the Respondent's lack of rights or legitimate interests in the disputed domain name are set out in Section 5A above.

There is no evidence that the Respondent is commonly known by the disputed domain name. The disputed domain name was registered after the Complainant established its trademark rights in COMPASS.

Use of the disputed domain name to impersonate the Complainant or to conduct fraudulent activities is not *bona fide* use of the disputed domain name.

Having regard to all these matters, the Panel finds that the *prima facie* case established by the Complainant has not been rebutted by the Respondent and the Complainant succeeds on the second element of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that the Complainant must establish that the Respondent registered and subsequently used the disputed domain name in bad faith.

Generally speaking, a finding that a domain name has been registered and is being used in bad faith requires an inference to be drawn that the respondent in question has registered and is using the disputed domain name to take advantage of its significance as a trademark owned by the complainant. *Fifth Street Capital LLC v. Fluder (aka Pierre Olivier Fluder)*, WIPO Case No. [D2014-1747](#).

The disputed domain name includes the Complainant's trademark and the word "housing", thus suggesting an association with the Complainant's real estate services relating to the buying and selling of houses. This strongly suggests that the Respondent was aware of the Complainant and registered the disputed domain name because of the Complainant's reputation. The Respondent's decision to register the disputed domain name is most likely motivated by an awareness of the Complainant and the Complainant's trademark.

In 2022, the disputed domain name resolved to a website that impersonated the Complainant.

The Complainant included an email from a potential customer of the Complainant who had posted on Facebook that he was looking for an apartment. A person contacted him claiming to be a real estate broker and asked for a deposit payment. This person used a fake real estate broker profile that was hosted on a webpage at the disputed domain name.

The Panel considers, absent any response or reply from the Respondent, that the Respondent's use of the disputed domain name to impersonate the Complainant and its agents, while disguising the Respondent's identity via a privacy service, was undertaken for fraudulent purposes. This is evidence of bad faith under the Policy. *L.M. Waterhouse & Co., Inc. v. Scott Myers, Intersearch Global*, WIPO Case No. [D2021-0962](#).

The fact that the disputed domain name does not currently resolve to an active website does not prevent a finding of bad faith in the present circumstances.

The Panel finds that the Respondent registered and used the disputed domain name in bad faith.

The Complainant succeeds on the third element 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 <compass-housing.com> be transferred to the Complainant.

/John Swinson/

John Swinson

Sole Panelist

Date: April 3, 2023