

ADMINISTRATIVE PANEL DECISION

Insurance King Agency, Inc. v. DANNY LAMONTE
Case No. D2023-4170

1. The Parties

The Complainant is Insurance King Agency, Inc., United States of America ("United States"), represented by Phil Nicolosi Law, P.C., United States.

The Respondent is DANNY LAMONTE, United States.

2. The Domain Name and Registrar

The disputed domain name <insurancekingsinc.com> is registered with Network Solutions, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 6, 2023. On October 9, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 11, 2023, 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 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 October 16, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 8, 2023. Shortly after, the Respondent sent an email communication to the Center on November 8, 2023.

The Center appointed Evan D. Brown as the sole panelist in this matter on November 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 provides insurance brokerage services. It owns the mark INSURANCE KING, for which it enjoys the benefits of registration in the United States (Reg. No. 4,628,341, registered on October 28, 2014). According to the Whois information, the disputed domain name was registered on September 21, 2022. The Respondent has used the disputed domain name to set up a website that bears the mark INSURANCE KINGS and purports to offer services identical to those offered by the Complainant. The Complainant, through counsel, sent a cease-and-desist letter to the Respondent on August 14, 2023, asserting trademark infringement. The Respondent did not respond to the letter.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant's trademark; that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

The Respondent did not file a timely Response in these proceedings but did send an email to the Center dated November 8, 2023, in which he "maintained" his rights in the disputed domain name and invited offers to purchase the disputed domain name.

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (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 Panel finds that all three of these elements have been met in this case.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#). The Complainant has demonstrated its rights in the INSURANCE KING mark by providing evidence of its trademark registration.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. While the addition of other terms (here, an "s" and the term "inc" may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the INSURANCE KING mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving 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 often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

On this point, the Complainant asserts that: (1) it has not granted any license rights to the Respondent or otherwise authorized the Respondent to use the INSURANCE KING mark in any capacity, (2) the Respondent is not known by and has never been known by or attempted to identify the source of its services under the trade name INSURANCE KING or any confusingly similar derivation thereof, and (3) the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain. Instead, the disputed domain name is being used in an effort to purportedly compete with the Complainant using a confusingly similar mark.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Under paragraph 4(b)(iv) of the Policy, a panel may find bad faith when a respondent “[uses] the domain name to intentionally attempt to attract, for commercial gain, Internet users to [the respondent's] website or other online 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 a product or service on [the respondent's] website or location”.

The Complainant's mark has been registered for a number of years and the record indicates that the Complainant and its mark are well known in the particular market space. Based on this, the Panel finds that the Respondent targeted the Complainant when it registered the disputed domain name, and sought to trade off the goodwill of the Complainant's mark and deceive Internet users by operating the website at the disputed domain name.

The lack of response by the Respondent to the cease-and-desist letter sent by the Complainant supports a finding of bad faith. Past UDRP panels have held that failure to respond to a cease-and-desist letter may be considered a factor in finding bad faith registration and use of a domain name. See *Encyclopaedia Britannica, Inc. v. John Zuccarini and The Cupcake Patrol a/k/a Country Walk a/k/a Cupcake Party*, WIPO Case No. [D2000-0330](#).

Based on the available record, the Panel finds the third element of the Policy has been established.

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 <insurancekingsinc.com> be transferred to the Complainant.

/Evan D. Brown/

Evan D. Brown

Sole Panelist

Date: November 27, 2023