

ADMINISTRATIVE PANEL DECISION

Coller Capital Limited v. li li
Case No. D2023-4951

1. The Parties

The Complainant is Coller Capital Limited, United Kingdom, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is li li, China.

2. The Domain Name and Registrar

The Disputed Domain Name <collercapital.com> (“the Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 28, 2023. On November 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On the same day, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 29, 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 November 30, 2023.

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 December 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 21, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 22, 2023.

The Center appointed Mireille Buydens as the sole panelist in this matter on January 2, 2024. 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 was founded in 1990 and is one of the world's leading investors in private equity's secondary market. The Complainant, with headquarters in London, United Kingdom, and offices in New York, United States, and Hong Kong, China, has been providing liquidity solutions to private equity investors worldwide for 30 years. The Complainant asserts to have achieved milestone transactions of the secondary market including, the purchase of the Shell US Pension Trust portfolio, the purchase of the NatWest Equity Partners portfolio, the acquisition of Crédit Agricole Private Equity, among others.

The Complainant, notably through its subsidiary Collier Holdings Limited, has rights in trademark registrations for COLLER CAPITAL ("the Trademark") for investment products and services in many jurisdictions including:

- United States trademark registration no. 2809826 for COLLER CAPITAL (word), registered on February 3, 2004, for services in international class 36;
- European Union trademark registration No. 002718146 for COLLER CAPITAL (word) registered on December 16, 2003, for services in international class 36,;
- International trademark registration no.1655121, for COLLER CAPITAL (word) registered on February 3, 2022, in international classes 16, 36 and 41; this registration also applies to China.

The Complainant maintains a strong Internet presence, mainly through its primary website at "www.collicapital.com" (since June 9, 1998). Furthermore, the Complainant maintains an active portfolio of more than 91 domain names, where at least 39 of which utilize the words "coller capital".

The Disputed Domain Name was registered on August 31, 2023.

The Complainant sent three cease-and-desist letters (September 22, 2023, September 29, 2023, and October 6, 2023) to Withheld for Privacy ehf.

Per Complaint, the Disputed Domain Name resolved to a website featuring multiple third-party links for products competing with the Complainant's products. At the time of this decision, the Disputed Domain Name resolves to an error page in Chinese (translated with Google translation, it mentions: " your request did not find the corresponding site in the web server!").

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

First, the Complainant asserts that it owns prior rights in the Trademark. The Disputed Domain Name is a purposeful misspelling of the Complainant's Trademark and must be considered confusingly similar to the Complainant's trademark. The Disputed Domain Name varies from the Complainant's Trademark by only one letter – the Respondent has added the letter "l" to the term "capital" in the Complainant's Trademark and removed the space between "Coller" and "capital(l)". The Top-Level Domain ("TLD") ".com" in the Disputed Domain Name should be disregarded.

Second, the Complainant asserts that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. The Respondent has not been licensed, contracted, or otherwise permitted by the Complainant in any way to use the Trademark or to apply for any domain name incorporating the Trademark. The Respondent is not commonly known by the Disputed Domain Name (it is identified under the name “li li”). The Complainant further explains that the website at which the Disputed Domain Name resolved first featured third-party links for products that directly compete with the Complainant, which indicates that the Respondent presumably received pay-per-click fees from the linked websites. The Disputed Domain Name now resolves to an error page.

Third, the Complainant asserts that the Disputed Domain Name was registered and is being used in bad faith. The Complainant submits that the Trademark (which predates the registration of the Disputed Domain Name) is internationally known. At the time of registration of the Disputed Domain Name, the Respondent knew, or at least should have known, of the existence of the Complainant's Trademark. The Complainant contends that the Respondent has ignored the Complainant's attempts to resolve this dispute outside of this proceeding (as it sent three cease-and-desist letter to the registrar and received no answer). The Complainant further asserts that the Respondent creates a likelihood of confusion with the Complainant and its Trademark by registering a domain name that is confusingly similar to the Complainant's Trademark and corporate name. This demonstrates that the Respondent is intending to use the Disputed Domain Name to confuse unsuspecting Internet users looking for the Complainant's products or services, and to mislead internet users as to the source of the Disputed Domain Name and website. The first use of the Disputed Domain Name demonstrates that the Respondent was capitalizing on the fame and goodwill of the Complainant's Trademark in order to increase traffic to the Disputed Domain Name's website for the Respondent's own pecuniary gain, as evidenced by the presence of multiple pay-per-click links posted to the Respondent's previous website. Currently, the Disputed Domain Name resolves to an inactive site (“passive holding”). The Complainant asserts that such use is in bad faith as the Disputed Domain Name is confusingly similar to the Complainant's Trademark (it is a typosquatted version of the Complainant's Trademark) and the Respondent has made no use of the Disputed Domain Name.

B. Respondent

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

6. Discussion and Findings

Dealing with the Respondent's failure to file a response to the Complaint, paragraph 14(b) of the Rules provides that if a party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under these Rules, the panel shall be entitled to draw such inferences from this omission, as it considers appropriate.

Paragraph 4(a) of the Policy provides that the Complainant proves each of the following three elements to succeed in its Complaint:

- (i) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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.

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.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the Trademark is reproduced within the Disputed Domain Name. The Disputed Domain Name contains the Trademark in its entirety and differs only by the mere addition of the letter “l” to the last part of the Trademark (“Capital” is written as “Capitall” in the Disputed Domain Name).

The TLD “.com” is a standard registration requirement and does not prevent the Disputed Domain Name from being confusingly similar to the Trademark. [WIPO Overview 3.0](#), section 1.11.1.

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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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.

Having reviewed the available 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 such as those enumerated in the Policy or otherwise.

The Respondent is not licensed by or affiliated with the Complainant in any way. There is no evidence that the Respondent would be commonly known under the Disputed Domain Name, nor is there any evidence of use or demonstrable plans to use the Disputed Domain Name for a *bona fide* offering of goods or services. There is no evidence of legitimate noncommercial or fair use of the Disputed Domain Name, either.

The Panel notes that the composition of the Disputed Domain Name, adding the letter “l” to the second part of the Trademark (which is an obvious case of typosquatting), affirms the Respondent’s intention of taking unfair advantage of the likelihood of confusion between the Disputed Domain Name and the Complainant’s Trademark and corporate name and to mislead the Internet users for commercial gain. This is the more so that, in first instance, the Disputed Domain Name resolved to a parking page comprising (presumably) pay-per-click links referring to websites offering products and services competing with the Complainant’s products and services. This confirms that there is no use, nor preparations to use of the Disputed Domain Name in connection with a *bona fide* offering of goods or services.

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.

In the present case, the Panel notes that, given that the Disputed Domain Name contains the Complainant's well-known Trademark which predates the registration of the Disputed Domain Name, with the addition of the letter "l" to second part of the Trademark ("Collercapital" instead of "Coller Capital", which is an obvious case of typosquatting). The addition of a letter "l" to "Capital", which already ends with a "l", will be unnoticed by the Internet users. It is highly unlikely that the Respondent was not aware of the Complainant's Trademark at the time of the registration of the Disputed Domain Name ([WIPO Overview 3.0](#) section 3.1.4). By registering the Disputed Domain Name, the Respondent has sought to create a misleading impression of association with the Complainant. The registration of the Disputed Domain Name creates an obvious likelihood of confusion with the Complainant and its Trademark. The Respondent has used the Disputed Domain Name in the first place to abusively attract Internet users on its website containing (presumably) pay-per-click links to other websites offering competing products and services.

Currently, the Disputed Domain Name is passively held. Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the Disputed Domain Name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's Trademark and the composition of the Disputed Domain Name, the failure of the Respondent to submit a response and the Respondent's concealing its identity. The Panel finds that in the circumstances of this case the passive holding of the Disputed Domain Name does not prevent a finding of bad faith under the Policy.

Therefore, the Panel finds the Respondent's registration and use of the Disputed Domain Name constitutes bad faith under the Policy.

Based on the available record, the Panel finds that the Complainant has established 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, <collercapital.com>, be transferred to the Complainant.

/Mireille Buydens/

Mireille Buydens

Sole Panelist

Date: January 5, 2024