

ADMINISTRATIVE PANEL DECISION

Regal Entertainment Group, Regal Cinemas, Inc. v. Richard A. Block
Case No. D2024-0338

1. The Parties

Complainants are Regal Entertainment Group and Regal Cinemas, Inc. (hereinafter “Complainant”), represented by Bryan Cave Leighton Paisner LLP, United States of America (“US”).

Respondent is Richard A. Block, US.

2. The Domain Name and Registrar

The disputed domain name <talktoregal.cfd> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 25, 2024. On January 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 26, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from named Respondent (Unidentified Domain Name Registrant) and contact information in the Complaint. The Center sent an email communication to Complainant on January 29, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on February 2, 2024.

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 Respondent of the Complaint, and the proceedings commenced on February 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 25, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on February 26, 2024.

The Center appointed Phillip V. Marano as the sole panelist in this matter on March 7, 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

Founded in 1989, Complainants operate movie theatre circuits throughout the world, including over 420 theatres in more than 42 states and territories. Complainant provides information about its services through the official <regalcinemas.com> and <regmovies.com> domain names and websites, as well as an official online customer survey website through its <talktoregal.com> domain name. Complainant owns valid and subsisting registrations for the REGAL and REGAL CINEMAS trademarks in the US (collectively referred to herein as the “REGAL trademarks”), including the trademark for REGAL (US Reg. No. 3,889,100), registered on December 14, 2010, with the earliest priority dating back to January 1990, and the trademark for REGAL CINEMAS (US Reg. No. 1,893,390) registered on May 9, 1995, with priority also dating back to January 1990.

Respondent registered the disputed domain name on April 5, 2023. At the time this Complaint was filed, the disputed domain name resolved to Respondent’s website, which according to screengrabs proffered by Complainant, featured the header “TalkToRegal.com”, as well as photographs of several of Complainant’s cinemas. Respondent’s website was titled “TalkToRegal.com – Win \$100 Regal Gift Card – Regal Survey” and it advertised, “The Regal Entertainment Survey is holding a survey on their official website at <talktoregal.com> which is a survey that consist of questions related to their customer last visiting experiences to the regal cinemas”. Respondent’s website was replete with button hyperlinks labeled “Take TalkToRegal Survey”. Respondent’s website was also replete with pay-per-click advertisements to third party services.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Complainant asserts ownership of the REGAL trademark and has adduced evidence of trademark registrations in the US as reflected above. The disputed domain name is confusingly similar to Complainant’s REGAL trademark, according to Complainant, because it incorporated the REGAL trademark in its entirety, and the addition of the phrase “talk to” actually increases the confusing similarity because it intentionally copies Complainant’s official “.com” version of the disputed domain name, all as part of Respondent’s illegal phishing and malware scheme - which is established by warning messages triggered when an Internet user attempts to click one of Respondent’s “Take TalkToRegal Survey” buttons.

Complainant further asserts that Respondent lacks any rights or legitimate interests in the disputed domain name based on: Respondent’s use of the disputed domain name in furtherance of its illegal impersonation, phishing, and malware scheme; the lack of any association, authorization, or license between Complainant and Respondent; the well-known nature of Complainant’s REGAL trademark; Respondent’s intentional targeting of Complainant’s REGAL trademarks in the disputed domain name and in Respondent’s website content; the lack of any evidence that Respondent, identified in registration data as “Richard A. Block”, is known by Complainant’s REGAL trademark or the phrase “Talk To Regal”; and Respondent’s use of the disputed domain name to redirect Internet users to the pay-per-click advertisements on Respondent’s website.

Complainant argues that Respondent has registered and used the disputed domain name in bad faith for numerous reasons, including: Respondent's use of the disputed domain name in furtherance of an illegal impersonation, phishing, or malware scheme, or to otherwise divert Internet users to Respondent's pay-per-click advertisements; Respondent's use of action buttons titled "Take TalkToRegal Survey" which trigger phishing and malware warnings when clicked on; Respondent's use of false or fictitious domain name registration data, including a fictitious street address and a telephone number with insufficient digits and contact information Complainant was neither able to corroborate or correlate using TLO or idiCore database searches or publicly available information; Respondent's use of a fraudulent website header and browser tab that claim Respondent's website is actually Complainant's official website at the domain name <talktoregal.com>; Respondent's record as an adjudicated serial cybersquatter whose modus operandi is to hide its true identity, register domains incorporating well known trademarks of others, trade off their goodwill to redirect traffic to fraudulent impersonation websites, and fail to respond to complaints filed under the Policy.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

To succeed in its Complaint, Complainant must establish in accordance with paragraph 4(a) of the Policy:

- i. The disputed domain name is identical or confusingly similar to a trademark in which Complainant has rights;
- ii. 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.

Although Respondent did not reply to Complainant's contentions, the burden remains with Complainant to establish by a balance of probabilities, or a preponderance of the evidence, all three elements of paragraph 4(a) of the Policy. A respondent's default would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true. UDRP panels have been prepared to draw certain inferences in light of the particular facts and circumstances of the case, e.g. where a particular conclusion is prima facie obvious, where an explanation by the respondent is called for but is not forthcoming, or where no other plausible conclusion is apparent. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), sections 4.2 and 4.3; see also *The Vanguard Group, Inc. v. Lorna Kang*, WIPO Case No. [D2002-1064](#) ("The Respondent's default does not automatically result in a decision in favor of the complainant. The Complainant must still prove each of the three elements required by Policy paragraph 4(a)").

Affiliates and trademark licensees can be considered to have rights in a trademark under the UDRP for the purposes of standing to file a consolidated complaint. [WIPO Overview 3.0](#), section 1.4. UDRP panels most often have accepted consolidated complaints in situations where multiple complainants have demonstrated common legal interests in the trademark rights on which a complaint is based, typically involving commonality based on an agency, licensing, or affiliate relationship between the co-complainants. See, e.g., *ITT Manufacturing Enterprises, Inc., ITT Corporation v. Douglas Nicoll, Differential Pressure Instruments, Inc.*, WIPO Case No. [D2008-0936](#). Although the Complaint did not detail the specific relationship between Regal Entertainment Group and Regal Cinemas, Inc., beyond references to "Complainant Regal and its affiliates", publicly available information easily confirmed for the Panel that the former is the parent of the latter. Therefore, the Panel finds that for the purpose of this dispute, the interests of Complainant are co-extensive based on that parent-subsidary relationship, and that it is appropriate for them to proceed jointly as "Complainant". See e.g. *Volkswagen Group of America, Inc. v. Kim Hyeonsuk a.k.a. Kim H. Suk, Domain Bar, Young N. and Kang M.N.*, WIPO Case No. [D2014-1596](#); *Starwood Hotels & Resorts Worldwide Inc., et. I. v. Media Insight a/k/a Media Insights*, WIPO Case No. [D2010-0211](#)

("The consolidation of multiple complainants in a single complaint generally should be permitted if the complainants have a truly common grievance against the respondent, and it is equitable and procedurally efficient to do so.").

A. Identical or Confusingly Similar

Ownership of a nationally or regionally registered trademark serves as prima facie evidence that Complainant has trademark rights for the purposes of standing to file this Complaint. [WIPO Overview 3.0](#), section 1.2.1. Complainant submitted evidence that the REGAL trademark has been registered in the US with priority dating back to January 1990. Thus, the Panel finds that Complainant's rights in the REGAL trademark have been established pursuant to the first element of the Policy.

The only remaining question under the first element of the Policy is whether the disputed domain name is identical or confusingly similar to Complainant's REGAL trademark. In this Complaint, the disputed domain name is confusingly similar to Complainant's REGAL trademark because, disregarding the ".cfd" new generic Top-Level Domain ("gTLD"), the entirety of the trademark is contained within the disputed domain name. [WIPO Overview 3.0](#), section 1.7. ("This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the domain name ... [I]n cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar..."). In regards to new gTLDs, such as ".cfd" in the disputed domain name, they are generally viewed as a standard registration requirement and are disregarded under the first element. [WIPO Overview 3.0](#), section 1.11.

The combination with the phrase "talk to" does not prevent a finding of confusing similarity between Complainant's REGAL trademark and the disputed domain name. WIPO Overview, section 1.8 ("Additional terms 'whether descriptive, geographic, pejorative, meaningless, or otherwise' do not prevent a finding of confusing similarity under the first element"); see also *AT&T Corp. v. WorldclassMedia.com*, WIPO Case No. [D2000-0553](#) ("Each of the domain names in dispute comprises a portion identical to [the ATT trademark] in which the Complainant has rights, together with a portion comprising a geographic qualifier, which is insufficient to prevent the composite domain name from being confusingly similar to Complainant's [ATT trademark]"); *Pfizer Inc. v. Blue Viagra*, WIPO Case No. [D2004-0732](#) (Transferring the <blue-viagra.com> domain name and noting that "[t]he addition of a common term such as 'blue' preceding Complainant's famous and distinctive VIAGRA mark does not create a new or different mark in which the Respondent has rights, and therefore is not sufficient to avoid consumer confusion.").

In view of the foregoing, the Panel concludes that Complainant has established the first element of the Policy.

B. Rights or Legitimate Interests

Complainant must make out a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name, shifting the burden of production on this element to Respondent to come forward with evidence demonstrating such rights or legitimate interests. Where, as in this Complaint, Respondent fails to come forward with any relevant evidence, Complainant is deemed to have satisfied the second element of the Policy. WIPO Overview, section 2.1. As a threshold matter, it is evident from the record that Respondent, identified by Whois data for the disputed domain name as "Richard A. Block", is not commonly known by the disputed domain name or Complainant's REGAL trademark.

More importantly, UDRP panels have categorically held that use of a domain name for illegal activity - including the impersonation of the complainant and other types of fraud - can never confer rights or legitimate interests on a respondent. Circumstantial evidence can support a credible claim made by a complainant asserting respondent is engaged in such illegal activity, including that respondent has masked its identity to avoid being contactable, or that respondent's website has been suspended by its hosting

provider. [WIPO Overview 3.0](#), section 2.13. See e.g. *Graybar Services Inc. v. Graybar Elec, Grayberinc Lawrenge*, WIPO Case No. [D2009-1017](#) (“Respondent has used the domain name to pretend that it is the Complainant and in particular to create false emails pretending that they are genuine emails coming from the Complainant and one of its senior executives”); see also *The Commissioners for HM Revenue and Customs v. Name Redacted*, WIPO Case No. [D2017-0501](#) (“In addition, the disputed domain names ... have had their web hosting suspended as a result of fraudulent activities. This is evidence of bad faith registration and use of the disputed domain names”). In its Complaint, Complainant has submitted persuasive, direct, and uncontroverted evidence that Respondent has used the disputed domain name in connection with website content that fraudulently purports to either be or bear an association with Complainant, and fraudulently purports to link to Complainant’s official survey website at the domain name <talktoregal.com> - instead linking to content that triggers phishing and malware warnings. To this end, the second and third elements of the Policy may be assessed together where clear indicia of bad faith suggests that there cannot be any Respondent rights or legitimate interests. [WIPO Overview 3.0](#), section 2.15.

In view of the foregoing, the Panel concludes that Complainant has established the second element of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy proscribes the following non-exhaustive circumstances as evidence of bad faith registration and use of the disputed domain name:

- i. Circumstances indicating that Respondent has registered or Respondent has acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to Complainant who is the owner of the trademark to a competitor of that Complainant, for valuable consideration in excess of Respondent’s documented out of pocket costs directly related to the disputed domain name; or
- ii. Respondent has registered the disputed domain name in order to prevent the owner of the trademark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- iii. Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- iv. By using the disputed domain name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

Wrongful use of others’ trademarks to extort information from unsuspecting and unwary people, by using the disputed domain name for phishing activity, is considered abusive registration of the disputed domain name under the Policy. See *CareerBuilder, LLC v. Stephen Baker*, WIPO Case No. [D2005-0251](#); *The Boots Company, PLC v. The programmer adviser*, WIPO Case No. [D2009-1383](#). See e.g. *WSI Holdings Ltd. v. WSI House*, WIPO Case No. [D2004-1089](#) (“Respondent appears to be engaged in ‘phishing’ for mistaken potential employees of the Complainant ... Respondent (1) has adopted a confusingly similar domain name, (2) it has used the trade dress of the Complainant’s website, and (3) it has sought to attract users to its site by creating confusion between its site and the Complainant’s. It has clearly engaged in activity which fulfils the bad faith requirements of Paragraph 4(b)(iv) of the Policy.”). See e.g. *Go Daddy Operating Company, LLC v. Wu Yanmei*, WIPO Case No. [D2015-0177](#) (emails sent by the respondent from domain names using the complainant’s trademark in an attempt to obtain complainant’s customer information was held to be use of the disputed domain name for a phishing scheme and consequently bad faith under the Policy); *AB Electrolux v. Piotr Pardo*, WIPO Case No. [D2017-0368](#) (engaging in fraudulent email phishing activities through unauthorized use of a trademark for obtaining data or deriving information is construed as bad faith under the Policy). As discussed above, Complainant has proffered persuasive, direct, and uncontroverted

evidence that Respondent has used the disputed domain name in connection with website content that fraudulently purports to either be or bear an association with Complainant, and fraudulently purports to link to Complainant's official survey website at the domain name <talktoregal.com> - instead linking to content that triggers phishing and malware warnings.

Further supporting Complainant's evidence that Respondent is carrying out an illegal phishing or malware scheme, this Complaint presents an example where Respondent has engaged in an identical scheme of targeting, which coupled together with this instance here reflects a pattern of bad faith registration and use within paragraph 4(b)(ii) of the Policy. [WIPO Overview 3.0](#), section 3.1.2. ("This may include a scenario where a respondent, on separate occasions, has registered trademark-abusive domain names, even where directed at the same brand owner."). Complainant has cited one other substantially similar case where Respondent was found to have registered and used a domain name in bad faith in furtherance of an imposter survey and illegal phishing or malware scheme, which resulted in a decision against Respondent. This case demonstrates that Respondent has previously targeted in bad faith third party trademarks. See *BDSRCO, Inc. v. Richard A. Block*, Forum Claim Number FA2310002064354. This substantially similar adverse UDRP decision against Respondent shows that Respondent's modus operandi is to: hide its true identity through anonymous domain name registration services; register domain names incorporating trademarks of others in connection with online surveys; trade-off the goodwill of those marks for commercial gain by redirecting Internet traffic to fraudulent imposter surveys; and refuse to participate when the rightful trademark owners file complaints pursuant to the Policy.

Moreover, the use of false registration data in connection with a disputed domain name further supports a finding of bad faith registration and use. See e.g. *Action Instruments, Inc. v. Technology Associates*, WIPO Case No. [D2003-0024](#) (Providing false contact information violates paragraph 2 of the Policy, which requires a registrant to represent that the statements it 'made in [its] Registration Agreement are complete and accurate'. Maintaining that false contact information in the WHOIS records (which can easily be updated at any time) after registration constitutes bad faith use of the domain name because it prevents a putative complainant from identifying the registrant and investigating the legitimacy of the registration."); *Royal Bank of Scotland Group v. Stealth Commerce*, WIPO Case No. [D2002-0155](#); *Home Director, Inc. v. HomeDirector*, WIPO Case No. [D2000-0111](#). To this end, Complainant has offered persuasive evidence that Respondent used as registration data for the disputed domain name not only a fictitious street address and incomplete telephone number, but also a personal name that could not be corroborated or correlated by Complainant using either publicly available information or subscription-based professional search services.

In view of the foregoing, the Panel concludes that 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 <talktoregal.cfd> be transferred to Complainant.

/Phillip V. Marano/
Phillip V. Marano
Sole Panelist
Date: April 3, 2024