

ADMINISTRATIVE PANEL DECISION

Phoenix Contact GmbH & Co. v. Auli Kallio
Case No. DCO2023-0076

1. The Parties

Complainant is Phoenix Contact GmbH & Co., Germany, represented by Taylor Wessing LLP, Germany.

Respondent is Auli Kallio, Finland.

2. The Domain Name and Registrar

The disputed domain name <phoenix-contac.co> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 7, 2023. On September 7, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 8, 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 (Redacted For Privacy / GDPR Masked) and contact information in the Complaint. The Center sent an email communication to the Complainant on [date of email communication] 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 September 13, 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 September 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 12, 2023.

The Center appointed Georges Nahitchevansky as the sole panelist in this matter on October 19, 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

Complainant, Phoenix Contact GmbH & Co, is a German company that provides components, systems and solutions in the fields of electrical engineering, electronics and automation. Complainant operates in over 100 countries, including Columbia, through subsidiaries and distribution partners. Complainant uses the mark PHOENIX CONTACT for its products and services and owns a number of trademark registrations in many countries around the world for PHOENIX CONTACT, as either a word or stylized mark or as part of a logo, in connection with Complainant's products and services. These include, *inter alia*, a registration in the European Union for a stylized version of PHOENIX CONTACT (Registration No. 004894085) which issued to registration on October 4, 2007, and several word mark registrations for PHOENIX CONTACT in Columbia (Registration Nos. 447305, 497415, 447301, 473560, 447304, 474669) that all issued to registration in 2012 and 2013. Complainant, or one of its subsidiaries, also owns and uses the domain name <phoenixcontact.com> to provide information concerning Complainant and its products and services.

Respondent appears to be an individual based in Finland. Respondent registered the disputed domain name on May 23, 2023. At some point thereafter, Respondent posted a website at the disputed domain name that prominently shows the name "Phoenix Contac" with a legend just below that states "Business Advisory and Support Services." The website also includes a background photo showing a manufacturing robot and facility, a login page and a "contact us" tab that requires that a name and email be provided. The website contains no information regarding the alleged "Phoenix Contac" company or its services. Currently, the disputed domain name continues to resolve to the above noted website.

5. Parties' Contentions

A. Complainant

Complainant maintains that the PHOENIX CONTACT mark is well-known on account of its use in Germany and worldwide since 1982. Complainant also maintains that it owns strong rights in PHOENIX CONTACT by virtue of the continued use of the mark in commerce and the many trademark registrations owned by Complainant for the PHOENIX CONTACT mark.

Complainant argues that the disputed domain name is nearly identical to the PHOENIX CONTACT mark as it merely removes the letter "t" at the end of the word "contact."

Complainant asserts that Respondent does not have rights or legitimate interests in the disputed domain name as Respondent (i) was likely aware of the PHOENIX CONTACT mark when Respondent registered the nearly identical disputed domain name, (ii) has no authorization to own or register the disputed domain name, and (iii) is using the disputed domain name to take advantage of the reputation of Complainant's PHOENIX CONTACT mark for the benefit of Respondent.

Lastly, Complainant contends that Respondent has registered and used the disputed domain name in bad faith as the disputed domain name is nearly identical to the PHOENIX CONTACT mark and is being used by Respondent to create confusion and redirect consumers to Respondent's website in order to promote Respondent's claimed services.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark 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 was registered and is being used in bad faith.

A. Identical or Confusingly Similar

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. Section 1.2.1. of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). Complainant has provided evidence that it owns a number of trademark registrations for the PHOENIX CONTACT mark in multiple countries around the world, including the European Union and Columbia, and that it has used that mark in connection with its products and services well before Respondent registered the dispute domain name.

With Complainant's rights in the PHOENIX CONTACT mark established, the remaining question under the first element of the Policy is whether the disputed domain name (typically disregarding the country code Top Level Domain such as ".co") is identical or confusingly similar with Complainant's mark. See *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#). The threshold for satisfying this first element is low and generally panels have found that fully incorporating the identical mark in a disputed domain name is sufficient to meet this standing requirement.

In the instant proceeding, the disputed domain name is confusingly similar to Complainant's PHOENIX CONTACT mark as it fully and solely consists of a typo version of Complainant's mark in which CONTACT appears as CONTAC without the letter "t" and merely includes a hyphen between PHOENIX and CONTAC. As Complainant's mark is clearly recognizable in the disputed domain name, the Panel finds that Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its rights in Complainant's PHOENIX CONTACT mark and in showing that the disputed domain name is confusingly similar to that trademark.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the complainant must make at least a *prima facie* showing that the respondent possesses no rights or legitimate interests in a disputed domain name. *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once the complainant makes such a *prima facie* showing, the burden of production of evidence shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

Here, Respondent has used the disputed domain name with a website that purports to offer "business advisory and support services," although no further information regarding such alleged services is provided on Respondent's website. Indeed, as Respondent has not appeared in this proceeding, despite having been notified of such, Respondent's website appears suspicious, at best, given that it includes a "login" page, requiring a user name and password,¹ and a "Contact Us" page that seeks to obtain names and email addresses of web users visiting the website.

¹ It should be noted that Complainant's website at <phoenixcontact.com> includes a login page for customers of Complainant. Thus, the fact that Respondent's website also features a "Login" page does, on its face, raises the possibility that the website at the disputed domain name may be part of a scheme to obtain such information from unsuspecting parties. Respondent's failure to appear in this case simply makes that conclusion more plausible.

To be sure, the evidence before the Panel makes it fairly obvious that Respondent registered the disputed domain name that is nearly identical to Complainant's PHOENIX CONTACT mark as a way of profiting from the disputed domain name to attract traffic to Respondent's website to either promote Respondent's claimed services or for a possible nefarious purpose for the benefit of Respondent. Given the likelihood that the disputed domain name will be seen by the relevant consumers as somehow related to Complainant and its PHOENIX CONTACT products and services, it is more likely than not that Respondent's use of the disputed domain name is for purposes of driving web traffic to Respondent's website for Respondent's profit. Such use of the disputed domain name does not amount to a *bone fide* use or provide Respondent with a legitimate interest in the disputed domain name. See [WIPO Overview 3.0](#) at sections 2.5.3 and 2.13.

Given that Complainant has established with sufficient evidence that it owns rights in the PHOENIX CONTACT mark, and given Respondent's above noted actions, the Panel concludes that Respondent does not have a right or legitimate interests in the disputed domain name and that none of the circumstances of Paragraph 4(c) of the Policy are evident in this case.

C. Registered and Used in Bad Faith

In this matter, Respondent has registered and used the disputed domain name that plays upon Complainant's PHOENIX CONTACT mark and used such with a website that purports to promote business advisory and support services and/or which is meant to collect account credentials or names and email addresses of visitors to the website. As already noted, because the disputed domain name is nearly identical to Complainant's PHOENIX CONTACT mark, such is likely to be seen by the relevant consumers as suggesting a connection to Complainant and its PHOENIX CONTACT products and services.

Given Respondent's actions and failure to substantively respond to Complainant's contentions in this proceeding or to explain or justify his actions, it appears from the evidence before the Panel that Respondent registered and used the disputed domain name opportunistically, which is likely to be seen as connected to Complainant, to intentionally and misleadingly bring Internet users to Respondent's website for Respondent's own profit. See [WIPO Overview 3.0](#) at Section 3.1.4 (and cases cited therein).

Accordingly, the Panel finds that Complainant succeeds under this 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 <phoenix-contac.co> be transferred to Complainant.

/Georges Nahitchevansky/

Georges Nahitchevansky

Sole Panelist

Date: November 2, 2023