

ADMINISTRATIVE PANEL DECISION

Pest Control Office Ltd v. Domain Privacy Service fbo Registrant, The Endurance International Group, Inc. / Di Gregorio Sergio
Case No. D2022-0272

1. The Parties

The Complainant is Pest Control Office Ltd, United Kingdom, represented by Howard Kennedy LLP, United Kingdom.

The Respondent is Domain Privacy Service fbo Registrant, The Endurance International Group, Inc., United States of America (“United States”) / Di Gregorio Sergio, Italy.

2. The Domain Name and Registrar

The disputed domain name <pestcontroloffice.net> is registered with FastDomain, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 26, 2022. On January 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 27, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on January 28, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On January 31, 2022, an email communication from the Respondent was received by the Center. The Complainant filed an amendment to the Complaint on February 1, 2022.

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 2, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 22, 2022. The Respondent did not submit any response. Accordingly, the Center notified commencement of panel appointment process on February 23, 2022.

The Center appointed Miguel B. O'Farrell as the sole panelist in this matter on February 28, 2022. 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, Pest Control Office Ltd, was founded in 2008 and is the official handling service acting on behalf of the anonymous artist Banksy and is solely responsible for issuing certificates of authenticity in relation to Banksy's work.

The Complainant owns several trademark registrations for PEST CONTROL OFFICE, which cover, *inter alia*, the service of "authentication of artworks", including the following:

United Kingdom Trademark Registration No. UK00918221015 PEST CONTROL OFFICE, registered on August 25, 2020, in classes 35, 41, 42 and 45;

European Union Trademark Registration No. 018221015 PEST CONTROL OFFICE, registered on August 25, 2020, in classes 35, 41, 42 and 45;

United States Trademark Registration No. 6444122 PEST CONTROL OFFICE, registered on August 10, 2021 in classes 35, 41, 42 and 45 and

Australian Trademark Registration No. 2081612 PEST CONTROL OFFICE, registered on April 15, 2020, in classes 35, 41, 42 and 45.

The disputed domain name <pestcontroloffice.net> was registered by the Respondent on November 19, 2021, and relates to a website which offers a service similar to the service offered by the Complainant in the website displayed under the Complainant's domain name <pestcontroloffice.com>.

5. Parties' Contentions

A. Complainant

Since it was founded in 2008, the Complainant has built a significant goodwill and reputation in the name Pest Control Office as the sole authenticator of Banksy's work.

The Complainant submits at Annex 7, evidence of the Complainant's continued use of the trademark PEST CONTROL OFFICE in its domain name since 2008.

The Complainant's entire website to which its domain name <pestcontroloffice.com> resolves, has been reproduced by the Respondent in the website to which the disputed domain name resolves.

The use of the disputed domain name by the Respondent is very likely to mislead the public and to suggest a connection between the disputed domain name and the Complainant when there is no connection whatsoever.

The Respondent's intentional copying of the entirety of the Complainant's website content demonstrates that the Respondent's purpose in setting up the website was to impersonate the Complainant and, in doing so, unlawfully obtain information and/or payments and/or valuable artworks by Banksy from the consumers of the Complainant's services.

In essence, the Complainant claims that the disputed domain name is confusingly similar to the PEST CONTROL OFFICE trademarks mentioned in paragraph 4 above (Factual Background) in which the Complainant has rights and that the Respondent has no rights or legitimate interests in the disputed domain name, which was registered and is being used in bad faith.

Finally, the Complainant requests the Panel to issue a decision ordering that the disputed domain name be transferred to the Complainant.

B. Respondent

The Respondent did not reply to the Complainant's contentions. However, as indicated above, on January 31, 2022, the Respondent sent an informal email communication to the Center reading: "please inform all information in this regard, opposing the appeal", which the Panel shall disregard, since it does not provide any useful information for the purpose of this decision.

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (i) the disputed domain name is identical or confusingly similar with 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 was registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has proved that it has rights in the trademark PEST CONTROL OFFICE.

As set forth in section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name to determine whether the disputed domain name is confusingly similar with the trademark. The test 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 disputed domain name.

The disputed domain name incorporates the Complainant's PEST CONTROL OFFICE trademark in its entirety with the sole addition of the generic Top-Level Domain (gTLD) ".net" which the Panel shall disregard, as it is viewed as a standard registration requirement and is generally disregarded under the first element confusing similarity test, as set forth in section 1.11 of [WIPO Overview 3.0](#).

The Panel therefore finds that the disputed domain name is identical to the Complainant's PEST CONTROL OFFICE mark and that the conditions of paragraph 4(a)(i) of the Policy have been fulfilled.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out the following several circumstances which, without limitation, if found by the panel, shall demonstrate that the respondent has rights to or legitimate interests in a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

- before any notice to the respondent of the dispute, the respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the [disputed] domain name in connection with a *bona fide* offering of goods or services; or
- the respondent (as an individual, business, or other organization) has been commonly known by the [disputed] domain name, even if the respondent has acquired no trademark or service mark rights; or
- the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Complainant has proved that it is the owner of the PEST CONTROL OFFICE mark. There is no indication that it has licensed or otherwise permitted the Respondent to use any of its trademark, nor has it permitted the Respondent to apply for or use any domain name incorporating its mark.

There is no evidence in the present case that the Respondent has been commonly known by the disputed domain name, enabling it to establish rights or legitimate interests therein. The name of the Respondent does not resemble the disputed domain name in any manner.

Furthermore, there is no evidence in the file to prove any of the circumstances mentioned in paragraph 4(c) of the Policy, nor any other element to prove that the Respondent has legitimate interests or that it has established rights in the disputed domain name.

As established in section 2.5.1 of [WIPO Overview 3.0](#): "Fundamentally, a respondent's use of a domain name will not be considered 'fair' if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and the complainant's mark is often central to this inquiry [...] Generally speaking, UDRP panels have found that domain names identical to a complainant's trademark carry a high risk of implied affiliation."

The Panel finds that the Complainant has made out a *prima facie* case, a case calling for an answer from the Respondent. The Respondent has not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name (*Telstra Corporation Ltd. v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy have been fulfilled.

C. Registered and Used in Bad Faith

The Panel is satisfied that the Respondent must have been aware of the Complainant's trademark PEST CONTROL OFFICE mentioned in section 4 above (Factual Background) when it registered the disputed domain name on November 19, 2021 as the disputed domain name resolves to a copycat version of the Complainant's website.

In accordance with section 3.1.4 of [WIPO Overview 3.0](#), the Panel considers that the inclusion of the Complainant's PEST CONTROL OFFICE trademark in the disputed domain name creates a presumption of bad faith.

The Respondent when registering the disputed domain name has targeted the Complainant's trademark PEST CONTROL OFFICE with the intention to confuse Internet users and capitalize on the fame of the Complainant's trademark for its own monetary benefit. Moreover, the disputed domain name resolves to a copycat version of the Complainant's website, displaying the Complainant's PEST CONTROL OFFICE trademark.

The fact that there is a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the disputed domain name is also a significant factor to consider that the disputed domain name was registered in bad faith (as stated in section 3.2.1 of [WIPO Overview 3.0](#)).

The Panel finds that the Respondent has registered and uses the disputed domain intentionally to attempt to attract for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's PEST CONTROL OFFICE trademark as to the source, sponsorship, affiliation, or endorsement for services similar to those offered by the Complainant. This amounts to bad faith under paragraph 4(b)(iv) 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, <pestcontroloffice.net>, be transferred to the Complainant.

/Miguel B. O'Farrell/

Miguel B. O'Farrell

Sole Panelist

Date: March 4, 2022