

ADMINISTRATIVE PANEL DECISION

WABCO IP Holdings LLC v. Privacy Service Provided by Withheld for Privacy ehf / Grauss Gmbh, Grauss GMBH
Case No. D2022-0392

1. The Parties

The Complainant is WABCO IP Holdings LLC, United States of America (“United States”), represented by KLAKA Rechtsanwälte, Germany.

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Grauss Gmbh, Grauss GMBH, United States.

2. The Domain Name and Registrar

The disputed domain name <wabcocenter.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 February 4, 2022. On February 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On February 4, 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 February 14, 2022 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 amendment to the Complaint on February 14, 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 17, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 9, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 10, 2022.

The Center appointed Lynda M. Braun as the sole panelist in this matter on March 31, 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 is a global supplier of commercial vehicle technologies, including braking, transmission, automation and stability technologies and services. The Complainant and its subsidiaries together, "WABCO Group", were founded 150 years ago in the United States. Today, the Complainant employs approximately 12,000 individuals, including 2,600 engineers, at 45 locations worldwide. The WABCO Group was acquired in May 2020 by the German automotive supplier ZF Friedrichshafen AG. The WABCO Group continues to operate its businesses within ZF Friedrichshafen AG and its subsidiaries under the "WABCO" name.

The Complainant owns registered trademark registrations for the WABCO trademark in over 200 jurisdictions worldwide, including, for example, WABCO, European Union Trade Mark Registration No. 1609288, registered on July 7, 2001, in International Classes 4, 9, 11, and 12 (hereinafter collectively referred to as the "WABCO Mark").

The Complainant registered the domain name <wabco-solutioncentre.com> on November 8, 2019. The domain name resolves to the Complainant's official website. The Complainant gained considerable renown through press articles prior to the Respondent's registration and use of the Disputed Domain Name.

The Disputed Domain Name was registered on June 22, 2021, and resolves to a landing page that hosts third party sponsored hyperlinks, displaying links such as "Best Conference Centers", "Self Defense Training", and others. The resolving website is purportedly run by the company "Skenzo Ltd." that collects, processes, and discloses information obtained when users access the site, as detailed in the Privacy Policy of said website.

5. Parties' Contentions

A. Complainant

The following are the Complainant's contentions:

- the Disputed Domain Name is confusingly similar to the Complainant's trademark.
- the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.
- the Disputed Domain Name was registered and is being used in bad faith.
- the Complainant seeks the transfer of the Disputed Domain Name from the Respondent to the Complainant in accordance with paragraph 4(i) of the Policy.

B. Respondent

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

6. Discussion and Findings

In order for the Complainant to prevail and have the Disputed Domain Name transferred to the Complainant, the Complainant must prove the following (Policy, paragraph 4(a)(i-iii)):

- (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

This element consists of two parts: first, does the Complainant have rights in a relevant trademark and, second, is the Disputed Domain Name identical or confusingly similar to that trademark. The Panel concludes that the Disputed Domain Name is confusingly similar to the WABCO Mark.

It is uncontroverted that the Complainant has established rights in the WABCO Mark based on its use as well as its hundreds of registered trademarks for the WABCO Mark in jurisdictions worldwide. The consensus view is that “registration of a mark is *prima facie* evidence of validity, which creates a rebuttable presumption that the mark is inherently distinctive”. See *CWI, Inc. v. Domain Administrator c/o Dynadot*, WIPO Case No. [D2015-1734](#). The Respondent has not rebutted this presumption, and therefore the Panel finds that the Complainant has rights in the WABCO Mark.

The Disputed Domain Name consists of the WABCO Mark in its entirety followed by the dictionary term “center”, and then followed by the generic Top-Level Domain (“gTLD”) “.com”. It is well established that a domain name that wholly incorporates a trademark may be deemed confusingly similar to that trademark for purposes of the Policy despite the addition of other terms. As stated in section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), “where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element”. For example, numerous UDRP decisions have reiterated that the addition of a dictionary or descriptive word to a trademark does not prevent a finding of confusing similarity. See *Allianz Global Investors of America, L.P. and Pacific Investment Management Company (PIMCO) v. Bingo-Bongo*, WIPO Case No. D2011-0795; *Hoffmann-La Roche Inc. v. Wei-Chun Hsia*, WIPO Case No. [D2008-0923](#).

Finally, the addition of a gTLD such as “.com” in a domain name is technically required. Thus, it is well established that such element may typically be disregarded when assessing whether a disputed domain name is identical or confusingly similar to a trademark. See *Proactiva Medio Ambiente, S.A. v. Proactiva*, WIPO Case No. [D2012-0182](#) and [WIPO Overview 3.0](#), section 1.11. Thus, the Panel concludes that the Disputed Domain Name is confusingly similar to the Complainant’s WABCO Mark.

Accordingly, the Panel finds that the first element of paragraph 4(a) of the Policy has been met by the Complainant.

B. Rights or Legitimate Interests

Under the Policy, a complainant has to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such a *prima facie* case is made, the respondent carries the burden of production of evidence that demonstrates rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant may be deemed to have satisfied paragraph 4(a)(ii) of the Policy. See [WIPO Overview 3.0](#), section 2.1.

In this case, the Panel finds that the Complainant has made out a *prima facie* case. The Respondent has not submitted any arguments or evidence to rebut the Complainant’s *prima facie* case. Furthermore, the Complainant has not authorized, licensed or otherwise permitted the Respondent to use its WABCO Mark. Nor does the Complainant have any type of business relationship with the Respondent. The name of the Respondent has no apparent connection to the Disputed Domain Name that would suggest that it is related to a trademark in which the Respondent has rights. There is also no evidence that the Respondent is

commonly known by the Disputed Domain Name or by any name similar to it nor has the Respondent made any demonstrable preparations to use the Disputed Domain Name in connection with a *bona fide* offering of goods or services. Based on the use made of the Disputed Domain Name to resolve to a pay-per-click landing page with links related to conference centers in hotels and martial arts services, among other things, the Panel finds that the Respondent was not making a *bona fide* offering of goods or services nor making a legitimate noncommercial or fair use of the Disputed Domain Name. On the contrary, the Respondent uses the WABCO Mark for commercial gain as the Respondent may well receive referral fees when users click the hyperlinks. Finally, the composition of the Disputed Domain Name, comprising the entirety of the WABCO Mark, carries a risk of implied affiliation and cannot constitute fair use here, as it effectively suggests sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

Accordingly, the Panel finds that the second element of paragraph 4(a) of the Policy has been met by the Complainant.

C. Registered and Used in Bad Faith

The Panel finds that based on the record, the Complainant has demonstrated the existence of the Respondent's bad faith registration and use of the Disputed Domain Name pursuant to paragraph 4(a)(iii) of the Policy for the reasons set forth below.

First, based on the circumstances here, the Panel concludes that the Respondent registered and is using the Disputed Domain Name in bad faith in an attempt to attract Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's WABCO Mark as to the source, sponsorship, affiliation or endorsement of the Disputed Domain Name's resolving webpage. The Respondent's registration and use of the Disputed Domain Name indicate that such registration and use have been done for the specific purpose of trading on the name and reputation of the Complainant and its WABCO Mark. See *Madonna Ciccone, p/k/a Madonna v. Dan Parisi and "Madonna.com"*, WIPO Case No. [D2000-0847](#) ("[t]he only plausible explanation for Respondent's actions appears to be an intentional effort to trade upon the fame of Complainant's name and mark for commercial gain").

Second, the registration of a domain name that is confusingly similar to a widely-known trademark by an entity that has no relationship to that mark can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4. Here, the Disputed Domain Name is confusingly similar to the Complainant's WABCO Mark, save for the addition of the term "center" and the ".com" gTLD in the Disputed Domain Name. Since the Disputed Domain Name was registered after the Complainant first began using its WABCO Mark, the Panel finds that the Respondent had the Complainant's WABCO Mark in mind when registering the Disputed Domain Name.

Third, the Respondent attracts users for commercial gain by displaying third party pay-per-click links on the landing page to which the Disputed Domain Name resolves. The use of a confusingly similar domain name to display third party sponsored hyperlinks and allegedly collect click-through fees is evidence of bad faith under paragraph 4(b)(iv) of the Policy. As such, the Respondent was not only trading on consumer interest in the Complainant in order to generate Internet traffic and to commercially benefit from the links that appeared on the landing page, but the Respondent also purportedly derived commercial advantage in the form of referral fees. In the Panel's view, this constitutes bad faith. See *Fox News Network, LLC v. Warren Reid*, WIPO Case No. [D2002-1085](#); *Volvo Trademark Holding AB v. Unasi, Inc.*, WIPO Case No. [D2005-0556](#); *Lewis Black v. Burke Advertising, LLC*, WIPO Case No. [D2006-1128](#). Further, when the links on pay-per-click pages are based on the trademark value of a domain name, the trend in UDRP decisions is to recognize that such practice constitutes bad faith. See *Champagne Lanson v. Development Services/MailPlanet.com, Inc.*, WIPO Case No. [D2006-0006](#) (pay-per-click landing page not legitimate where ads are keyed to the trademark value of the domain name). In addition, since the data inputted by users of the site might have been processed and collected by the company running the site, such data collection could have been a form of phishing, which is emblematic of bad faith.

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 <wabcocenter.com> be transferred to the Complainant.

/Lynda M. Braun/

Lynda M. Braun

Sole Panelist

Date: April 14, 2022