

ADMINISTRATIVE PANEL DECISION

CTC Innovations, LLC v. Feras Aldous

Case No. D2022-0645

1. The Parties

Complainant is CTC Innovations, LLC, United States of America (“United States”), represented by Neal, Gerber & Eisenberg, United States.

Respondent is Feras Aldous, United States.

2. The Domain Name and Registrar

The disputed domain name <chicagotradingusa.com> (the “Domain Name”) is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 24, 2022. On February 24, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 24, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email to Complainant on February 27, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on February 28, 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 Respondent of the Complaint, and the proceedings commenced on March 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 3, 2022. The Response was filed with the Center on April 3, 2022.

The Center received a communication from Complainant on April 21, 2022, requesting the termination of the proceedings, to which the Respondent opposed on April 21, 2022.

The Center appointed Robert A. Badgley as the sole panelist in this matter on April 11, 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

Complainant describes itself as “a proprietary trading firm” and “a significant market participant on numerous derivatives exchanges globally.” Complainant has been in business since 1995, and has offices in Chicago, New York, London, and Hong Kong.

Complainant holds a number of trademark registrations for CHICAGO TRADING COMPANY, including United States Patent and Trademark Office Reg. No. 4,116,966, registered on March 27, 2012 in connection with “Financial services, namely, proprietary trading of financial instruments in the nature of options, futures, debt instruments and equities.”

Complainant operates a commercial website at the domain name <chicagotrading.com>. On its website and elsewhere (such as on its social media pages), Complainant frequently refers to itself as “CTC.” There is no evidence in the record about the extent to which CHICAGO TRADING COMPANY enjoys renown as a trademark.

The Domain Name was registered on July 15, 2021. The Domain Name does not resolve to an active website.

According to Respondent’s principal, Feras Aldous (“Aldous”), Chicago Trading USA Corp. is an Illinois-domiciled “branch” of Chicago Care Phones, a company formed in Qatar in 2017. Through Chicago Care Phones, Aldous sold and traded “mobile devices and related devices and accessories in the middle eastern region.” Annexed to the Response is a document, in English and in Arabic, which purports to show that Aldous in fact formed a business called Chicago Care Phones in Qatar in December 2017.

Also annexed to the Complaint is a document showing that, on July 14, 2021, the United States Department of the Treasury’s Internal Revenue Service issued an Employer Identification Number to Chicago Trading USA Corp., and a document showing that, on August 6, 2021, the Illinois Secretary of State certified Aldous’ firm, Chicago Trading USA Corp., as a corporation in good standing. This document also indicates that Aldous had filed the Articles of Incorporation for Chicago Trading USA Corp. on July 12, 2021.

According to Aldous, Chicago Trading USA Corp. operates the same type of business as his Qatar company, namely, selling and trading mobile phones and accessories. According to the Response, “Chicago Trading USA is recognized among those in the phone and accessory business.” Respondent provides no evidence, however, to support this claim.

In the Response, Aldous states:

“Registrant checked the availability of the Chicago Trading USA marks and since the registrant had the pure intention to expand his business operation from Qatar to the USA, and registered the name that reflect his already established efforts in Qatar.”

Aldous denies having had knowledge of the CHICAGO TRADING COMPANY mark at the time he registered the Domain Name.

Aldous also states that the Domain Name continues to resolve to a blank web page because the COVID-19 pandemic has caused him financial difficulty and has hindered his progress in setting up a commercial website.

On December 23, 2021, noting that the only information available to it as per the initial Complaint was “redacted for privacy” Complainant’s counsel sent a cease-and-desist letter to the Registrar, asserting its trademark rights, citing in particular section 3.7.7.3 of the ICANN Registrar Accreditation Agreement, and demanding that the Registrar divulge the name and contact information of Respondent.

The Registrar for some reason which is not clear to the Panel declined to provide the requested information, stating that it was merely an “administrative body” which does not “judge or adjudicate issues of dispute.”

5. Parties’ Contentions

A. Complainant

Complainant contends that it has proven all three elements required under the Policy for a transfer of the Domain Name.

B. Respondent

Respondent’s principal asserts that he innocently registered the Domain Name in order to expand his legitimate business into the United States market.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the 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 Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel concludes that Complainant has rights in the trademark CHICAGO TRADING COMPANY through registration and use demonstrated in the record. The Panel also concludes that the Domain Name is confusingly similar to that mark. The most distinctive portion of the mark – CHICAGO TRADING – is fully included within the Domain Name. The additional geographically descriptive term “USA” in the Domain Name does little to differentiate the Domain Name from Complainant’s mark.

Complainant has established Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or

(iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

In view of the Panel's ruling below on the "bad faith" element, the Panel need not decide whether Respondent lacks rights or legitimate interests in respect of the Domain Name.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, "in particular but without limitation," are evidence of the registration and use of the Domain Name in "bad faith":

(i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or

(ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or

(iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) that by using the 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.

On the record presented by the Parties, and on a balance of probabilities, the Panel cannot conclude that Complainant has carried its burden of proving that Respondent has registered and used the Domain Name in bad faith.

The Panel does not find it more likely than not that Respondent had Complainant's CHICAGO TRADING COMPANY mark in mind when registering the Domain Name. As noted above, there is little or no evidence in the record regarding the extent to which Complainant's mark enjoys renown.

Complainant argues that Respondent had constructive notice of the former's federally registered trademark. Under the UDRP, however, the concept of constructive notice – a legal incident under United States trademark law under which knowledge of a federally registered mark is constructively imputed to persons in the United States – typically does not by itself suffice to support a finding that a respondent had actual knowledge of another party's trademark. The concept of "bad faith" under the UDRP is not strictly coextensive with the concept of "infringement" under federal trademark law. Most notably, innocent conduct may be actionable as infringement under the Lanham Act, whereas such conduct typically does not constitute bad faith under the UDRP.

Complainant also asserts that Respondent had "full knowledge" of the CHICAGO TRADING COMPANY mark. Respondent denied having such knowledge, and on this record the Panel cannot conclude that Respondent's denial is implausible. Again, the degree of that mark's renown is not apparent from the record presented. If there had been evidence that Complainant's mark is so widely known – even outside the financial trading sector – that Respondent's denial of knowledge would have seemed implausible, then the result in this proceeding might have been different.

The Panel also notes that Respondent appears to have been operating a legitimate business – unrelated to Complainant’s business – in Qatar for several years, and Respondent’s efforts to establish a “branch” in Illinois just days before registering the Domain Name do not strike the Panel as evidence of targeting Complainant’s trademark, nor do the Respondent’s various points of evidence and related arguments strike the Panel as a pretext for cybersquatting activity.

In sum, the record here does not add up to a clear case of cybersquatting, which is what the UDRP is designed to address. Whether Complainant may have some type of trademark infringement or unfair competition cause of action against Respondent in another tribunal is beyond the scope of the UDRP and the Panel’s remit.

The Complaint fails.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Robert A. Badgley/
Robert A. Badgley
Sole Panelist
Date: April 25, 2022