

ADMINISTRATIVE PANEL DECISION

ChannelAdvisor Corporation v. Registration Private, Domains By Proxy, LLC /
Shu Bu Gong Zuo Ji Hua Ji, Fo Shan Shi Xing Hui Cheng Wang Lao Ke Ji
You Xian Gong Si
Case No. D2022-1485

1. The Parties

The Complainant is ChannelAdvisor Corporation, United States of America (“United States”), represented by Hutchison PLLC, United States.

The Respondent is Registration Private, Domains By Proxy, LLC, United States / Shu Bu Gong Zuo Ji Hua Ji, Fo Shan Shi Xing Hui Cheng Wang Lao Ke Ji You Xian Gong Si, China.

2. The Domain Name and Registrar

The disputed domain name <channeladvisor6.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 25, 2022. On April 26, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 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 May 2, 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 amended Complaint on the same date.

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 May 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 14, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 16, 2022.

The Center appointed Rodrigo Azevedo as the sole panelist in this matter on June 29, 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 an e-commerce company based in the United States that provides cloud-based software.

The Complainant's trademark CHANNELADVISOR is the object of numerous registrations in the United States (such as trademark registrations nos. 2,602,395 and 4,861,706, registered respectively on July 30, 2002 and December 1, 2015).

The Complainant is also the owner of a United States logo mark (registrations nos. 4,869,680 and 4,879,924, registered respectively on December 15, 2015 and January 5, 2016).

The Complainant owns the domain name <channeladvisor.com>, registered on June 13, 2001.

The disputed domain name was registered on March 28, 2022.

The Complainant provided evidence that the disputed domain name is linked to a website reproducing the Complainant's logo and presenting a series of commercial advertisements pursuant to which a user is purportedly able to earn commissions by completing specific tasks.

6. Parties' Contentions

A. Complainant

The Complainant makes the following contentions:

The disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights. The Complainant owns numerous registrations for the CHANNELADVISOR mark, in eight different countries. The Complainant has used the CHANNELADVISOR mark in connection with e-commerce related services since at least as early as 2001 and has used its logo mark since at least as early as 2011. The Respondent registered the disputed domain name only in 2022. The disputed domain name is nearly identical to, and confusingly similar with, the Complainant's CHANNELADVISOR mark. The disputed domain name subsumes the whole of the CHANNELADVISOR mark adding only the number "6". The addition of the number "6" does nothing to distinguish the disputed domain name from the Complainant's mark.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent's use of the disputed domain name has no connection with a *bona fide* offering of goods or services. The disputed domain name resolves to a webpage that prominently features the Complainant's logo mark, where users are asked to pay the Respondent a certain amount of money to sell and resell products with an opportunity to earn commissions. Upon information and belief, the Respondent does not pay out any of the "earned commissions" or refund amounts paid by users. The Complainant has been unable to identify any legitimate product or service offerings by the Respondent. The Complainant has been contacted by at least one individual who mistakenly believed the Complainant is responsible for the website at the disputed domain name. The Respondent's only business interest looks to be an attempt to create an association with the Complainant and the Complainant's registered trademarks.

The disputed domain name was registered and is being used in bad faith. Upon information and belief, the Respondent registered the disputed domain name with the express intent to trade-off the goodwill associated with the Complainant's well-known CHANNELADVISOR trademark. The disputed domain name was registered by the Respondent well after the Complainant had widely used and established broad consumer recognition in the CHANNELADVISOR trademark. The Respondent has demonstrated its awareness of the Complainant and its rights in the CHANNELADVISOR mark prior to its registration of the disputed domain name. From its inception, the Respondent has used the Complainant's logo mark on the website associated with the disputed domain name without authorization. The distinctive nature of Complainant's logo mark indicates that the use was not coincidental. "Channeladvisor" is not a phrasing that would typically be used by an entity as an adjective in the ordinary course of business. While one could be a "channel advisor" there is no such thing in common usage as a "channel advisor 6." In addition to registering the disputed domain name in bad faith, the Respondent is actively using the disputed domain name in bad faith. Upon information and belief, the disputed domain name is being used as part of a phishing effort by the Respondent and fraudulent efforts to collect money from unsuspecting users. The Respondent, through its use of the Complainant's registered CHANNELADVISOR trademark and logo mark, is creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the Respondent and the Respondent's website.

B. Respondent

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

7. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of a domain name, the Complainant must prove the following three elements:

- (1) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (2) the respondent has no rights or legitimate interests in respect of the domain name; and
- (3) the domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has proved that it has rights in the CHANNELADVISOR trademark since at least 2002.

The Complainant's trademark CHANNELADVISOR is wholly encompassed within the disputed domain name, together with the number "6" and the generic Top-Level Domain ("gTLD") ".com".

It seems evident to this Panel that the mere addition of a number does not prevent confusing similarity with a trademark. Also, it is already well established that the addition of a gTLD is typically irrelevant when determining whether a domain name is confusingly similar to a complainant's trademark.

Therefore, the Panel finds the disputed domain name to be confusingly similar to the Complainant's trademark.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides some examples without limitation where a respondent can demonstrate a right or legitimate interest in a domain name by showing one of the following facts:

(i) before receiving any notice of the dispute, the respondent used or made preparations to use the domain name in connection with a *bona fide* offering of goods or services; or

(ii) the respondent has been commonly known by the domain name; or

(iii) the respondent is 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 at issue.

The Panel has concluded that the above circumstances are not present in this particular case and that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant has not licensed the trademark to the Respondent and there is no indication that the Respondent is commonly known by the disputed domain name.

The Panel also notes that the present record provides no evidence to demonstrate the Respondent's intent to use or to make preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services or legitimate noncommercial or fair use.

Indeed, the Complainant is using the disputed domain name in connection with a webpage unauthorizedly reproducing the Complainant's logo, in which the Respondent is likely to be making a profit through advertisements, taking unfair advantage of the Complainant's trademark.

The Complainant has put forward a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, which the Respondent has not rebutted.

Consequently, the Panel is satisfied that the Complainant has proven the second element of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that the following circumstances in particular but without limitation, shall be evidence of registration and use of a domain name in bad faith:

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

(ii) the Respondent 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 the Respondent has engaged in a pattern of such conduct; or

(iii) the Respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its web site or location.”

The disputed domain name fully encompasses the Complainant's trademark CHANNELADVISOR.

When the disputed domain name was registered by the Respondent, in 2022, the trademark CHANNELADVISOR had already been registered and was being used for two decades by the Complainant.

In addition, as already mentioned, the Respondent's website at the disputed domain name reproduces the Complainant's logo, which is very distinctive and has been registered and used by the Complainant for many years.

Therefore, it is not feasible that the Respondent could have been unaware of the Complainant's reputation and trademarks when registering the disputed domain name.

The use of the disputed domain name, which is almost identical to the Complainant's trademark, to host a commercial website featuring the Complainant's logo, illustrates the Respondent's intent to mislead unsuspecting Internet users, searching for the Complainant, for the Respondent's presumed commercial advantage. On this point, the Complainant demonstrated that confusion is actually occurring as to the origin of the disputed domain name.

Also, the non-collaborative posture of the Respondent, not providing any justifications for the use of a third party trademark, certainly cannot be used in benefit of the Respondent in this Panel's opinion.

Such circumstances, including the lack of any plausible interpretation for the adoption of the term "channeladvisor6" by the Respondent, are enough in this Panel's view to characterize bad faith registration and use in the present case.

Accordingly, the Panel finds that the Complainant has proven that the Respondent registered and is using the disputed domain name in bad faith, satisfying 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 <channeladvisor6.com> be transferred to the Complainant.

/Rodrigo Azevedo/

Rodrigo Azevedo

Sole Panelist

Date: July 14, 2022