

ADMINISTRATIVE PANEL DECISION

Grasim Industries Limited and UltraTech Cement Limited v. Jinsoo Yoon
Case No. D2022-2263

1. The Parties

Complainant is Grasim Industries Limited, India, and UltraTech Cement Limited, India, represented by Saikrishna & Associates, India (hereinafter collectively referred to as the “Complainants”).

Respondent is Jinsoo Yoon, Republic of Korea.

2. The Domain Name and Registrar

The disputed domain name <ultratechcements.com> (hereinafter the “Disputed Domain Name”) is registered with DropCatch.com LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 22, 2022. On June 22, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On June 22, 2022, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details. On July 4, 2022, the Center sent an email communication to Complainants regarding remedy and mutual jurisdiction, and inviting Complainants to submit an amendment to the Complaint. Complainants filed an amended Complaint on July 7, 2022.

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 Respondent of the Complaint, and the proceedings commenced on July 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 28, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 9, 2022.

The Center appointed Lawrence K. Nodine as the sole panelist in this matter on August 23, 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

Complainants are two entities within a group of related companies that are in turn a part of a global conglomerate that is a Fortune 500 company, with over 140,000 employees belonging to 100 nationalities. With over seven decades of experience, Complainants' businesses have grown into large international companies in a wide range of sectors including metals, pulp and fibre, chemicals, textiles, carbon black, telecom, and cement. Complainants are two of the largest manufacturers of grey cement, ready mix concrete ("RMC"), and white cement in India. Complainants own multiple trademark registrations for the ULTRATECH CEMENT mark India and internationally, (e.g. Reg. No. 1244745 for ULTRATECH CEMENT & Design in India, Registered October 21, 2003) (the "ULTRATECH CEMENT Mark").

Complainants also own and operate several official ULTRATECH CEMENT websites, including Complainants' official website at the "www.ultratechcement.com" domain name, a domain name that was registered on October 26, 2004.

Respondent registered the Disputed Domain Name on August 17, 2019, long after Complainants registered their ULTRATECH CEMENT Mark. The webpage associated with the Disputed Domain Name displays hyperlinks to third-party websites that offer similar products to those offered in connection with the ULTRATECH CEMENT Mark, and, therefore, these third parties compete with Complainants.

5. Parties' Contentions

A. Complainants

Complainants assert that their ULTRATECH CEMENT Mark is well-known as a result of their exclusive and continuous use of the Mark since at least 2003. As evidence of the Mark's fame, Complainants cite to prior trademark litigation decisions in India that have found Complainants' ULTRATECH CEMENT Mark well-known, as well as the Mark's inclusion in the list of well-known trademarks on the official website of the Indian Trade Marks Registry. Complainants contend that Respondent was aware of Complainants' ULTRATECH CEMENT Mark and their rights therein, and purposefully registered the Disputed Domain Name to exploit Complainants' goodwill in the Mark. Complainants claim that the addition of the letter "s" does nothing to eliminate the confusing similarity of the Disputed Domain Name to their ULTRATECH CEMENT Mark.

Complainants further assert that Respondent lacks rights or legitimate interests in the Disputed Domain Name because Respondent has never used the Disputed Domain Name in connection with a *bona fide* offering of goods or services. Specifically, Complainants claim that Respondent is a cyber-squatter that has never been commonly identified with the Disputed Domain Name or any variation thereof prior to its registration of the Disputed Domain Name. Complainants also contend that Respondent is not a licensee of Complainants nor has Respondent ever been authorized by Complainants to use Complainants' Mark or register the Disputed Domain Name.

Additionally, Complainants contend that Respondent registered and is using the Disputed Domain Name in bad faith because Respondent registered the Disputed Domain Name in an attempt to make monetary profits by either selling, renting, or otherwise transferring the Disputed Domain Name registration to Complainants or to one of their competitors. Complainants further allege that Respondent knew of Complainants' rights in the ULTRATECH CEMENT Mark when it registered the Disputed Domain Name, and therefore, registered the Disputed Domain Name in bad faith.

B. Respondent

Respondent did not reply to Complainants' contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel finds that Complainants' trademark registrations establish that they have rights in the ULTRATECH CEMENT mark. The Panel further finds that the Disputed Domain Name is confusingly similar to Complainants' ULTRATECH CEMENT Mark. Respondent's addition of the letter "s" is an example of an intentional misspelling of a trademark that results in a domain name that is confusingly similar to the Mark. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 1.9; see also, e.g., *Skyscanner Limited v. Domains By Proxy, LLC / Sky Scanners*, WIPO Case No. [D2022-0415](#) (finding <sky-scanners.com> confusingly similar to the SKYSCANNER mark); and *GEIMEX v. Ibrahim Zacharia*, WIPO Case No. [D2020-3185](#) (finding <leaderprices.com> confusing similar to the LEADER PRICE mark).

Complainants have satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Complainants have presented a *prima facie* case for Respondent's lack of rights or legitimate interests in the Disputed Domain Name, which Respondent has not rebutted. The Panel finds that Respondent has no rights or legitimate interests in the Disputed Domain Name as (i) Respondent is not licensed to use Complainants' ULTRATECH CEMENT Mark, (ii) Respondent is not affiliated or associated with Complainants, and (iii) Respondent had not made a *bona fide* use of the Disputed Domain Name. Specifically, the Disputed Domain Name resolves to a Pay-Per-Click ("PPC") advertising webpage featuring links for rain gutter guards, and siding and roofing, which are all used in construction along with Complainants' cement products. As these items are related commercially to the products sold by Complainants under its ULTRATECH CEMENT Mark, Respondent is "capitaliz[ing] on the reputation and goodwill of [C]omplainant[s]' mark or otherwise mislead Internet users" and likely derive a commercial benefit through the collection of click-through revenue. [WIPO Overview 3.0](#), section 2.9; see also *Legacy Health System v. Nijat Hassanov*, WIPO Case No. [D2008-1708](#); and *SOCIÉTÉ DES PRODUITS NESTLÉ SA v. Mustafa Yakin / Moniker Privacy Services*, WIPO Case No. [D2008-0016](#). Therefore, Respondent is not making a *bona fide* use of the Disputed Domain Name.

Complainants have satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Respondent when it acquired the Disputed Domain Name was fully aware of Complainants' rights. Respondent has not denied Complainants' allegation and evidence that their Mark are well-known. Moreover, given the near total identity of the Marks and the Disputed Domain Name, the Panel infers that Respondent most likely knew of Complainants' ULTRATECH CEMENT Mark when Respondent registered the Disputed Domain Name. As such, Respondent registered the Disputed Domain Name in bad faith. See *Veuve Cliquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.*, WIPO Case No. [D2000-0163](#) (bad faith is found where a domain name "is so obviously connected with such a well-known product that its very use by someone with no connection with the product suggests opportunistic bad faith").

Additionally, Respondent has used the Disputed Domain Name in bad faith, specifically to direct Internet visitors to a PPC parking page featuring links to commercially related products, intentionally creating a likelihood of confusion with Complainants' trademark likely for Respondent's financial gain. See *Wayfair LLC v. Xiamen Privacy Protection Service Co., Ltd. / zhang qin*, WIPO Case No. [D2018-2032](#); see also *Wal-Mart Stores Inc. v. Frank Warmath*, WIPO Case No. [DTV2008-0013](#) ("When a domain name incorporating a famous mark is used to attract Internet traffic to fuel click-through revenues which trade on the reputation of that mark, a conclusion of bad faith registration and use under paragraph 4(a)(iii) of the Policy is unavoidable.").

Complainants have satisfied paragraph 4(a)(iii) 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, <ultratechcements.com>, be transferred to UltraTech Cement Limited.

/Lawrence K. Nodine/

Lawrence K. Nodine

Sole Panelist

Date: September 6, 2022