

ADMINISTRATIVE PANEL DECISION

SPIRE Credit Union v. Domains By Proxy, LLC / William Butler,
bball25@sbcglobal.net
Case No. D2022-2749

1. The Parties

Complainant is SPIRE Credit Union, United States of America (“United States”), represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States.

Respondent is Domains By Proxy, LLC, United States / William Butler, bball25@sbcglobal.net, United States.

2. The Domain Name and Registrar

The disputed domain name <spirecredit.com> (the “Domain Name”) 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 July 26, 2022. On July 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 28, 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 July 29, 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 August 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 Respondent of the Complaint, and the proceedings commenced on August 2, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 22, 2022. An informal Response was filed with the Center on August 1, 2022.

The Center appointed Robert A. Badgley as the sole panelist in this matter on August 16, 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.

On August 5, 2022, Complainant submitted to the Center a Supplemental Filing, primarily to address Respondent's statements and conduct since this proceeding was initiated. On August 9, 2022, Respondent sent an email to the Center replying to Complainant's Supplemental Filing. Both of these documents were considered by the Panel, in its discretion, but neither added much by way of substance to an understanding of the dispute.

4. Factual Background

Complainant was founded in the state of Minnesota in 1934 as Twin City Co-ops Credit Union, and changed its name to SPIRE Credit Union in 2008. Complainant provides credit union services and offers credit cards to consumers. Complainant employs 300 people and operates 22 branch locations in Minnesota.

Since 2011, Complainant has owned the domain name <myspire.com>, and it uses that domain name to host its commercial website, including the offer of credit cards and financial services.

Complainant holds two registered trademarks with the United States Patent and Trademark Office ("USPTO"), including USPTO Reg. No. 3,502,538 for the word mark SPIRE (registered on September 16, 2008 in connection with "credit union and banking services"), and the stylized mark SPIRE (registered on December 2, 2008 in connection with "credit union and banking services").

The Domain Name was registered on March 25, 2019. At the time the Complaint was filed, the Domain Name resolved to a website offering credit cards and financial services. Respondent has since taken down the website.

On July 18, 2022, Complainant's counsel sent a letter to Respondent, asserting Complainant's trademark rights and asking Respondent to explain his reasons for registering and using the Domain Name. Complainant's counsel demanded a response by July 25, 2022. No response was received by that date. The Complaint in this proceeding was filed the following day, July 26, 2022.

5. Parties' Contentions

A. Complainant

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

B. Respondent

Respondent does not actually dispute Complainant's factual allegations, but his main argument is that, although Complainant operates a business in one state, the Internet is global, and hence Respondent should be allowed to make some type of commercial use of the Domain Name outside (or even within) the United States.

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; and
- (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 SPIRE through registration and use demonstrated in the record. The Panel also concludes that the Domain Name is confusingly similar to that mark. The SPIRE mark is clearly recognizable within the Domain Name, and the additional word “credit” does little or nothing to reduce the confusing similarity between the mark and the Domain Name.

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.

The Panel concludes that Respondent lacks rights or legitimate interests in connection with the Domain Name. Respondent had the chance to reply to Complainant’s pre-Complaint letter to articulate his *bona fides*, but he did not reply. Similarly, within this proceeding, Respondent has not articulated any legitimate basis for registering the Domain Name. In addition, Respondent never denied having knowledge of the SPIRE trademark at the time he registered the Domain Name. Such a denial is to be expected from someone who is being wrongly charged with violating another party’s trademark rights.

It is undisputed that Respondent had no authority from Complainant to use the SPIRE trademark in a domain name or otherwise. The Panel concludes, on this record, that Respondent’s use of the Domain Name for a website featuring the SPIRE mark and offering credit cards to consumers (which is also Complainant’s business activity) cannot constitute a *bona fide* offering of goods or services.

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

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.

The Panel concludes that Respondent registered and used the Domain Name in bad faith under the Policy. The Panel incorporates its discussion above in the "Rights or Legitimate Interests" section.

The Panel concludes, on this record, that Respondent more likely had Complainant's SPIRE mark in mind when registering the Domain Name. First, the Domain Name is comprised solely of Complainant's registered trademark SPIRE and the word "credit" – a word which describes the core of Complainant's business. Further, as noted above, the Panel would have expected Respondent to state that he was unaware of Complainant's SPIRE trademark when registering the Domain Name if this were indeed the case. Instead, Respondent focuses on the fact that Complainant apparently is licensed to conduct business in only one or two states.

With respect to bad faith use, the Panel finds that Respondent's operation of a commercial website offering credit cards to customers falls within the above-quoted Policy paragraph 4(b)(iv).

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

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 Domain Name <spirecredit.com> be transferred to Complainant.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: August 23, 2022