

ADMINISTRATIVE PANEL DECISION

Protective Life Insurance Company v. Joel
Case No. D2022-3334

1. The Parties

The Complainant is Protective Life Insurance Company, United States of America (“United States” or “USA”), represented by Maynard, Cooper & Gale, P.C., USA.

The Respondent is Joel, USA.

2. Disputed domain name and Registrar

The disputed domain name <protec-tive.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 7, 2022. On September 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 10, 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 September 12, 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 September 13, 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 September 14, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 4, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 5, 2022.

The Center appointed Colin T. O'Brien as the sole panelist in this matter on October 7, 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 offers a portfolio of life and specialty insurance and investment products and services throughout the United States. Complainant, through its predecessors, has promoted its services under the mark PROTECTIVE since at least as early as 1908.

Complainant is the owner of the domain name <protective.com>, which was registered on April 11, 1995.

Complainant is the owner of United States Trademark Registration Number 4727173, for the word mark PROTECTIVE, which has a first use date of 1908. This trademark was registered on April 28, 2015.

The disputed domain name <protec-tive.com> was registered on April 21, 2022. The disputed domain name does not resolve to an active website, though evidence has been presented of its use for an alleged fraudulent email scheme that will be discussed in further detail below.

5. Parties' Contentions

A. Complainant

As a result of its long and substantial use of the PROTECTIVE mark in connection with its services, consumers throughout the United States have come to recognize the PROTECTIVE mark and associate it with Complainant and its services.

Respondent uses the disputed domain name to set up email addresses incorporating the disputed domain name. Respondent distributes emails using the disputed domain name wherein Respondent attempts to mislead recipients of the emails into believing that Respondent is Complainant or that the emails originate from Complainant, when they do not.

The disputed domain name includes the term "protec-tive" which is highly similar to Complainant's PROTECTIVE mark.

Respondent is not commonly known by the disputed domain name or the term "Protec-tive". No website is hosted at the disputed domain name, and Respondent's sole use of disputed domain name is to set up email addresses. The sole purpose of the disputed domain name is to mislead recipients of emails originating from disputed domain name into believing that Respondent is, or is somehow related to, Complainant.

Respondent's interest in disputed domain name to pass itself off as Complainant and mislead potential purchasers of life insurance is not legitimate and does not constitute a *bona fide* offering of goods or services or a legitimate noncommercial or fair use.

By using the disputed domain name, Respondent is intentionally attempting to attract for commercial gain, recipients of emails sent from email addresses associated with the disputed domain name, by causing such email recipients to mistakenly believe that Respondent is Complainant or that the emails originate from Complainant, when they do not. Respondent registered and is using disputed domain name in bad faith as demonstrated by Respondent sending emails from email addresses associated with the disputed domain name to email-recipients while communicating that Respondent is an insurance "Customer Claims Specialist".

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

Complainant has demonstrated it owns registered trademark rights in the PROTECTIVE trademark in the United States. The insertion of a hyphen between of the "c" and "t" in the term "protective" does not prevent a finding of confusing similarity. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions Third Edition ("[WIPO Overview 3.0](#)").

Accordingly, the disputed domain name is confusingly similar to a mark in which Complainant has rights.

B. Rights or Legitimate Interests

Complainant has presented a *prima facie* case that Respondent has no rights or legitimate interests in respect of the disputed domain name; has not at any time been generally known by the disputed domain name; has not used or made demonstrable preparations to use the disputed domain name and is not making a legitimate noncommercial or fair use of the disputed domain name. Complainant has also presented *prima facie* evidence Respondent has attempted to illegitimately deceive Internet users, that it is associated with Complaint to possibly obtain sensitive information from unsuspecting parties.

After a complainant has made a *prima facie* case, the burden of production shifts to the respondent to present evidence demonstrating rights or legitimate interests in the domain name. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

Here, Respondent has provided no evidence of any rights or legitimate interests in the disputed domain name. Regardless of the Respondent's default, the use of the disputed domain name for illegal activity (*i.e.*, a fraudulent email scheme impersonating the Complainant) can never confer rights or legitimate interests upon a respondent. [WIPO Overview 3.0](#), section 2.13.

The Panel finds that Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The disputed domain name was registered many years after Complainant first registered and used its PROTECTIVE mark. While the term PROTECTIVE can reference many different things, the Panel is persuaded that Respondent registered the disputed domain name with the knowledge of the Complainant. The strongest evidence provided by Complainant is an email sent by Respondent using the disputed domain name, to a customer of Complainant from a person with the title "Customer Claim Specialist", which is a position often found in the insurance industry.

Given the evidence provided by Complainant, it is clear Respondent knew of Complainant's PROTECTIVE mark and knew that it had no rights or legitimate interests in the disputed domain name.

Further, the use of the disputed domain name by Respondent is in bad faith. Paragraph 4(b)(iv) states that evidence of bad faith may include a respondent's use of a domain name to intentionally attempt to attract, for commercial gain Internet users to the respondent's web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's web site or location. The use of the disputed domain name for email purposes to send false invoices to Complainant's customers is *prima facie* bad faith use on the part of Respondent.

Accordingly, the Complainant has successfully established 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, <protec-tive.com>, be transferred to Complainant.

/Colin T. O'Brien/

Colin T. O'Brien

Sole Panelist

Date: October 21, 2022