

ADMINISTRATIVE PANEL DECISION

CNO Financial Group, Inc. v. Domain, Administrator
Case No. D2022-3409

1. The Parties

The Complainant is CNO Financial Group, Inc., United States of America (“United States”), represented by Ice Miller LLP, United States.

The Respondent is Domain, Administrator, Nigeria.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 13, 2022. On September 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 14, 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 (Privacy Protection, United States) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 23, 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 amended Complaints on September 28, October 3, and October 4, 2022.

The Center verified that the Complaint together with the amended Complaints 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 October 5, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 25, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 1, 2022.

The Center appointed Luca Barbero as the sole panelist in this matter on November 17, 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 a financial services holding company based in the United States. It was incorporated in 1979 and began operations in 1982, becoming public as Conesco, Inc. in 1985.

In 2010, the Complainant was rebranded to CNO Financial Group, Inc. Today, the Complainant markets its insurance products under three brands, including WASHINGTON NATIONAL INSURANCE COMPANY and serves the insurance needs of middle-income, pre-retiree, and retired Americans. The Complainant's 2021 revenues totaled USD 4.1 billion with net income of USD 441 million. CNO is also listed on the New York Stock Exchange as CNO.

The Complainant's wholly owned subsidiary CDOC, Inc. is the owner of several trademark registrations for WASHINGTON NATIONAL INSURANCE COMPANY and WASHINGTON NATIONAL, including the following, as per trademark certificates submitted as annexes to the Complaint:

- United States Registration No. 3263914 for WASHINGTON NATIONAL INSURANCE COMPANY (word mark), registered on July 17, 2007, in International Class 36;
- United States Registration No. 3945826 for WASHINGTON NATIONAL INSURANCE COMPANY (figurative mark), registered on April 12, 2011, in International Class 36;
- United States Registration No. 4098163 for WASHINGTON NATIONAL (figurative mark), registered on February 14, 2012, in International Class 36;
- United States Registration No. 4098162 for WASHINGTON NATIONAL (figurative mark), registered on February 14, 2012, in International Class 36.

The Complainant operates a website at the domain name <washingtonnational.com>, registered on April 23, 2004, where it promotes its services under the trademarks WASHINGTON NATIONAL and WASHINGTON NATIONAL INSURANCE COMPANY.

The disputed domain name was registered on August 10, 2022, and is not currently pointed to an active website. However, the Complainant provided evidence that the disputed domain name previously resolved to a website with pay-per-click links related to the Complainant's services.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the trademark WASHINGTON NATIONAL in which the Complainant has rights as it reproduces the trademark in its entirety with the mere addition of the term "life" and the generic Top-Level Domain ("gTLD") ".com".

With reference to rights or legitimate interests in respect of the disputed domain name, the Complainant states that the Respondent has no rights or legitimate interests in the disputed domain name since the Complainant has owned rights in the trademark WASHINGTON NATIONAL since long before the Respondent registered the disputed domain name.

The Complainant also contends that the Respondent is not sponsored or affiliated to it in any way, it has not given the Respondent permission to use the Complainant's trademarks or business information in any

manner, nor has it ever licensed or authorized the Respondent to use its trademarks or name, or to register any domain name incorporating the Complainant's trademark or name in any way.

Moreover, the Complainant highlights that there is no evidence that the Respondent may be making any legitimate or fair use of the disputed domain name without the intent for commercial gain or that the Respondent may be commonly known by the disputed domain name and submits that the use of a privacy protection service to mask its identity is further proof of its lack of rights or legitimate interests in the disputed domain name.

With reference to the circumstances evidencing bad faith, the Complainant indicates that, considering the Complainant has marketed and sold its goods and services using the trademarks WASHINGTON NATIONAL and WASHINGTON NATIONAL INSURANCE COMPANY long before the registration of the disputed domain name and the well-known character of the trademarks, the Respondent knew of the Complainant's brands and business at the time of registration of the disputed domain name.

The Complainant submits that the Respondent registered the disputed domain name for illegitimate purposes, most likely to launch a phishing attack or to divert the Complainant's customers away from the Complainant's own website, which is clear evidence of bad faith registration and use. The Complainant also states that, by creating a strong likelihood of confusion by misappropriating the Complainant's trademarks in the disputed domain name, the Respondent's efforts to masquerade as the Complainant evince an attempt to commit fraud or to confuse consumers into believing that the Respondent's website is affiliated with or otherwise approved by the Complainant, which it is not. The Complainant further asserts that, if the Complainant did not identify and mitigate against such suspicious activity, the Respondent may have been successful in exploiting the confusion created by the disputed domain name to carry out any number of fraudulent schemes, which is why it must be considered bad faith registration and use of the disputed domain name.

Finally, the Complainant underlines that even the Respondent's use of a privacy service to hide its identity serves as further evidence of bad faith registration and use.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules: "A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable." Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

- (i) that the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant relies on United States trademark registrations for WASHINGTON NATIONAL and WASHINGTON NATIONAL INSURANCE COMPANY registered in the name of the Complainant's wholly owned subsidiary CDOC, Inc., as mentioned under Section 4 above.

As stated in section 1.4.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), “a trademark owner’s affiliate such as a subsidiary of a parent or of a holding company, or an exclusive trademark licensee, is considered to have rights in a trademark under the UDRP for purposes of standing to file a complaint”.

As also highlighted in section 1.7 of the [WIPO Overview 3.0](#), the first element functions primarily as a standing requirement, and the threshold test for confusing similarity typically involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The Panel finds that the disputed domain name is confusingly similar to the trademark WASHINGTON NATIONAL in which the Complainant has established rights as it reproduces the denominative element of the Complainant’s trademark, “WASHINGTON NATIONAL”, in its entirety with the mere addition of the term “life”, which does not prevent a finding of confusing similarity. See section 1.8 of the [WIPO Overview 3.0](#).

Moreover, as stated in section 1.11 of the [WIPO Overview 3.0](#), the gTLD “.com” can be disregarded when comparing the similarities between a domain name and a trademark, being a standard registration requirement.

Therefore, the Panel finds that the Complainant has proven that the disputed domain name is confusingly similar to a trademark in which the Complainant has established rights according to paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant must show that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent may establish a right or legitimate interest in the disputed domain name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

- “(i) before any notice to you 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 (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 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 the case at hand, by not submitting a Response, the Respondent has failed to invoke any circumstance that could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in the disputed domain name.

Moreover, it has been repeatedly stated that when a Respondent does not avail himself of its right to respond to a complaint, it can be assumed in appropriate circumstances that the Respondent has no rights or legitimate interests in the disputed domain name. The Panel notes that there is no relation, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant. The Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant’s trademarks.

Furthermore, there is no indication before the Panel that the Respondent is commonly known by the disputed domain name, has made preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services, or that it intends to make a legitimate, noncommercial or fair use of the disputed domain name.

The Panel also notes that the disputed domain name previously resolved to a website displaying pay-per-click links competing with or capitalizing on the reputation of the Complainant's trademarks. Such use does not constitute a *bona fide* offering of goods or services, nor a noncommercial or fair use of the disputed domain name. See section 2.9 of the [WIPO Overview 3.0](#). Moreover, the same finding applies to the current passive holding of the disputed domain name.

Furthermore, as stated in section 2.5.1 of the [WIPO Overview 3.0](#), "Even where a domain name consists of a trademark plus an additional term (at the second- or top-level), UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner".

Therefore, the Panel finds that the Complainant has proven that the Respondent has no rights or legitimate interests in the disputed domain name according to paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the Complainant prove that the disputed domain name was registered and is being used by the Respondent in bad faith.

The Panel finds that, in light of the prior registration and use of the Complainant's trademarks WASHINGTON NATIONAL and WASHINGTON NATIONAL INSURANCE COMPANY in connection with the Complainant's insurance services and of the confusing similarity of the disputed domain name with the Complainant's trademarks, the Respondent was more likely than not aware of the Complainant's trademarks at the time of registration.

Indeed, also in light of the fact that the Respondent, which did not file a Response, has not denied knowledge of the Complainant's trademark at the time of the registration of the disputed domain name and considering that the disputed domain name also includes the descriptive word "life" which serves to further heighten the possible association with the Complainant and its insurance services, the Panel finds that the Respondent was indeed aware of the Complainant when registering the disputed domain name.

At the time of filing the Complaint, the disputed domain name resolved to a website displaying pay per-click links competing with or capitalizing on the reputation of the Complainant's trademarks. Such use supports a finding that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademarks.

Moreover, the disputed domain name is not currently pointed to an active website, *i.e.* is passively held. As stated in section 3.3 of the [WIPO Overview 3.0](#), "From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or 'coming soon' page) would not prevent a finding of bad faith under the doctrine of passive holding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put".

In the case at hand, in view of i) the distinctiveness and reputation of the Complainant's trademarks WASHINGTON NATIONAL and WASHINGTON NATIONAL INSURANCE COMPANY; ii) the Respondent's registration of a domain name confusingly similar to the Complainant's prior trademarks; iii) the absence of any documented rights or legitimate interests of the Respondent in the disputed domain name; iv) the Respondent's failure to respond to the Complaint; v) the Respondent's concealing of its identity; and vi) the implausibility of any good faith use to which the disputed domain name may be put, the Panel finds that the current passive holding of the disputed domain name by the Respondent does not prevent a finding of bad faith registration and use.

Therefore, the Panel finds that the Complainant has also proven that the Respondent registered and is using the disputed domain name in bad faith according to 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 <washingtonnationallife.com> be transferred to the Complainant.

/Luca Barbero/

Luca Barbero

Sole Panelist

Date: December 2, 2022