

ADMINISTRATIVE PANEL DECISION

Everest Reinsurance Company v. Carolina Rodrigues, Fundacion Comercio Electronico

Case No. D2023-0145

1. The Parties

The Complainant is Everest Reinsurance Company, United States of America (“United States”), represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <everhelpeverestre.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 January 12, 2023. On January 12, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 13, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 January 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 13, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 27, 2023.

The Center appointed Assen Alexiev as the sole panelist in this matter on March 3, 2023. 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 subsidiary of Everest Re Group Ltd., which was founded in 1973 as the reinsurance arm of Prudential Financial, and in 1996 officially adopted the name “Everest”. The Complainant is registered on the New York Stock Exchange under the symbol “RE”.

The Complainant is the owner of the United States trademark EVEREST RE with registration No. 2055340, registered on April 22, 1997, for services in International Class 36 (the “EVEREST RE trademark”).

The Complainant is also the registrant of the domain name <everestre.com>, registered on March 12, 1996, which resolves to the Complainant’s official website.

The disputed domain name was registered on September 2, 2022. It resolves to a parked webpage containing pay-per-click links.

5. Parties’ Contentions

A. Complainant

The Complainant states that the disputed domain name is confusingly similar to its EVEREST RE trademark, and the dictionary words “ever” and “help” contribute to the confusion, because their combination reflects the Complainant’s email address used for technical support of its Everest online payments, and the Internet address of the Complainant’s self-service portal for its customers. According to the Complainant, the Respondent intended the disputed domain name to impersonate the Complainant, and registered it because it believed that it was confusingly similar to the Complainant’s EVEREST RE trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name, because it is not commonly known by the disputed domain name and is not affiliated with the Complainant, and the Complainant has not authorized the Respondent to register domain names incorporating the Complainant’s EVEREST RE trademark.

The Complainant points out that the Respondent registered the disputed domain name in 2022, which is many years after the Complainant’s registration and first use of its EVEREST RE trademark and its <everestre.com> domain name in 1996. Thus, by the time the Respondent registered the disputed domain name, the Complainant had already established goodwill and reputation on the EVEREST RE and EVEREST trademarks. The Complainant submits that the disputed domain name impersonates the Complainant and redirects internet users to a website featuring links to third-party websites. According to the Complainant, the Respondent receives pay-per-click fees from the linked websites listed at the website at the disputed domain name. The Complainant adds that the disputed domain name is being offered for sale for a price that far exceeds the Respondent’s out-of-pocket expenses for the registration of the disputed domain name.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. It notes that its EVEREST RE trademark is known internationally, as it has marketed and sold its goods and services using this trademark since 1996, which is well before the Respondent’s registration of the disputed domain name in 2022. According to the Complainant, the registration of the disputed domain name which includes the Complainant’s EVEREST RE trademark along with the word combination “ever help”, shows that the Respondent is familiar with the Complainant’s brand and business and intends to confuse and mislead unsuspecting Internet users looking for the Complainant’s products or services as to the source of the disputed domain name and the associated website. The Complainant concludes that the Respondent’s intent is to capitalize on the fame and goodwill of the Complainant’s EVEREST RE trademark in order to increase traffic to the website at the disputed domain name for the Respondent’s own pecuniary gain, as evidenced by the presence of multiple pay-per-click links included on the Respondent’s website.

The Complainant adds that the Respondent is currently offering to sell the disputed domain name for valuable consideration in excess of its out-of-pocket expenses, and points out that a number of previous Panels acting under the Policy have also concluded that the Respondent has engaged in cybersquatting.

Finally, the Complainant notes that the Respondent has ignored the Complainant's attempts to resolve this dispute outside of this administrative proceeding.

B. Respondent

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

6. Discussion and Findings

Pursuant to the Policy, paragraph 4(a), the Complainant must prove each of the following to justify the transfer of the disputed domain name:

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

A. Identical or Confusingly Similar

The Complainant has provided information about its registrations of the EVEREST RE trademark and has established its trademark rights for the purposes of the Policy.

The Panel notes that a common practice has emerged under the Policy to disregard in appropriate circumstances the generic Top-Level Domain ("gTLD") section of domain names for the purposes of the comparison under the Policy, paragraph 4(a)(i). See section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). The Panel sees no reason not to follow the same approach here, so it will disregard the ".com" gTLD section of the disputed domain name.

The relevant part of the disputed domain name is therefore the sequence "everhelpeverestre", in which the elements "ever", "help", "everest" and "re" can be distinguished. The first two of these elements are dictionary words, while the third and fourth together reproduce the EVEREST RE trademark, which is therefore recognizable in the disputed domain name. As discussed in section 1.7 of the [WIPO Overview 3.0](#), where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing. As discussed in section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.

Therefore, the Panel finds that the disputed domain name is confusingly similar to the EVEREST RE trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

While the overall burden of proof in UDRP proceedings is on the complainant, UDRP panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the

respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain names, stating that the Respondent is not commonly known under it and the Complainant has not granted the Respondent authorization to register or use domain names that are confusingly similar to the EVEREST RE trademark. The Complainant points out that the Respondent intends to impersonate the Complainant, because the disputed domain name reflects the email address used by the Complainant for technical support of its Everest online payments and the Internet address for its customer self-service portal. The Complainant further submits that the disputed domain name resolves to a website containing pay-per-click links to third parties. Thus, the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names.

The Respondent had a fair opportunity to present its case and to address the arguments and evidence of the Complainant and explain why it should be regarded as having rights or legitimate interests in the disputed domain names, but refrained from doing so.

The disputed domain name is confusingly similar to the EVEREST RE trademark of the Complainant and to the Complainant's technical support email address and subdomain. The evidence shows that the disputed domain name resolves to a website featuring pay-per-click links to third parties.

In view of the above, it appears to the Panel that it is more likely than not that the Respondent is aware of the goodwill of the Complainant and of its EVEREST RE trademark and has registered and used the disputed domain name in an attempt by impersonating the Complainant to confuse and attract Internet users to the associated website containing links to third parties, which links may generate financial gain for the Respondent. To the Panel, such conduct does not appear to be fair or giving rise to rights or legitimate interests of the Respondent in the disputed domain names.

Therefore, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists four illustrative alternative circumstances that shall be evidence of the registration and use of a domain name in bad faith by a respondent, namely:

“(i) circumstances indicating that you have registered or you have 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 your documented out-of-pocket costs directly related to the domain name; or

(ii) you have 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 you have engaged in a pattern of such conduct; or

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

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location or of a product or service on your website or location.”

The Respondent has incorporated the Complainant's EVEREST RE trademark in the disputed domain name, and it reflects the Complainant's email address for online payment technical support and the subdomain for its customer self-service portal. The disputed domain name resolves to a website containing pay-per-click links to third parties. This is sufficient to satisfy the Panel that the Respondent must have been well aware of the Complainant and of the EVEREST RE trademark when it registered the disputed domain name and that it intends to impersonate the Complainant to get financial gain from pay-per-click links.

The above satisfies the Panel that 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 EVEREST RE trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or of the third party links featured on it. Therefore, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith.

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 <everhelpeverestre.com> be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: March 10, 2023