

ADMINISTRATIVE PANEL DECISION

Hyster-Yale Group, Inc. v. Name Redacted
Case No. D2023-0340

1. The Parties

The Complainant is Hyster-Yale Group, Inc., United States of America (“U.S.”), represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Name Redacted.¹

2. The Domain Name and Registrar

The disputed domain name <hyster-yaleus.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 25, 2023. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. Also on January 25, 2023, 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 service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complainant on January 26, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint.

¹ The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

The Complainant filed an amended Complaint on January 31, 2023. 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 February 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 21, 2023. Respondent did not submit a formal response. Accordingly, the Center notified Respondent’s default on February 22, 2023.

The Center appointed Lorelei Ritchie as the sole panelist in this matter on February 27, 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

Complainant is a multinational company based in the U.S. Complainant has been offering its lift trucks and related goods and services under the HYSTER-YALE mark since at least 2012. In this regard, Complainant is the owner of several trademark registrations for its HY HYSTER-YALE mark in word form or as a composite word and design. These include, among others, U.S. Registration No. 5038018 (registered September 6, 2016), including the composite word and design logo used by Complainant as follows:



The disputed domain name was registered on April 2, 2022. Although it appears to resolve to a currently inactive webpage, Respondent has used an email address associated with the disputed domain name to engage in potentially fraudulent behavior whereby Respondent posed as an official representative of Complainant, seeking to obtain sensitive personal and financial information from a prospective business partner. Respondent has no affiliation with Complainant. Complainant has not authorized any activities by Respondent, nor any use of its trademarks thereby.

5. Parties’ Contentions

A. Complainant

Complainant contends that (i) the disputed domain name is identical or confusingly similar to Complainant’s trademarks, (ii) Respondent has no rights or legitimate interests in the disputed domain name; and (iii) Respondent registered and is using the disputed domain name in bad faith.

Specifically, Complainant contends that it owns the HYSTER-YALE mark, and that Complainant uses this mark and logo to interact with consumers, including via Complainant’s website located at the URL associated with <hyster-yale.com>.

Complainant contends that Respondent has incorporated in full its HYSTER-YALE mark in the disputed domain name, and merely added the geographically-descriptive term “us” which is likely to confuse prospective online consumers into thinking that the disputed domain name is affiliated with, or endorsed, by Complainant, and Complainant’s goods and services offered by U.S.-based Complainant.

Complainant contends that Respondent lacks rights or legitimate interest in the disputed domain name, and rather has registered and is using it in bad faith to profit from the goodwill of Complainant's mark for Respondent's own commercial gain. In particular, Complainant contends that Respondent has acted in bad faith in registering the disputed domain name under a confusingly false name, and in sending out fraudulent emails that reference and refer to Complainant and to an actual employee thereof, in an apparent attempt to confuse prospective business partners into providing sensitive personal and financial information.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

This Panel must first determine whether the disputed domain name <hyster-yaleus.com> is identical or confusingly similar to a trademark or service mark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy. The Panel finds that it is. The disputed domain name directly incorporates in full, the dominant feature of Complainant's HY HYSTER-YALE mark, with the addition of the geographically-descriptive term "us". The dominant feature of Complainant's Mark is easily recognizable within the disputed domain name.

Numerous UDRP panels have agreed that supplementing or modifying a trademark with generic or descriptive words, including geographically-descriptive terms, does not prevent a finding of confusing similarity under paragraph 4(a)(i) of the Policy. See, for example, *Inter-IKEA v. Polanski*, WIPO Case No. [D2000-1614](#); *General Electric Company v. Recruiters*, WIPO Case No. [D2007-0584](#); *Microsoft Corporation v. StepWeb*, WIPO Case No. [D2000-1500](#); *CBS Broadcasting, Inc. v. Y2K Concepts Corp.*, WIPO Case No. [D2000-1065](#).

The Panel therefore finds that the disputed domain name is identical or confusingly similar to a trademark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Policy provides some guidance to respondents on how to demonstrate rights or legitimate interests in the domain name at issue in a UDRP dispute. For example, paragraph 4(c) of the Policy gives examples that might show rights or legitimate interests in a domain name. These examples include: (i) use of the domain name "in connection with a *bona fide* offering of goods or services"; (ii) demonstration that Respondent has been "commonly known by the domain name"; or (iii) "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".

Respondent did not submit a reply to the Complaint, however. Rather, as mentioned in Section 4 of this Panel's decision, Respondent has used an email account associated with the disputed domain name to engage in an apparent phishing scheme. Accordingly, the Panel finds that Complainant has made a *prima facie* showing of Respondent's lack of rights or legitimate interest in the disputed domain name, which Respondent has not rebutted.

C. Registered and Used in Bad Faith

There are several ways that a complainant can demonstrate that a domain name was registered and used in bad faith. For example, paragraph 4(b)(iv) of the Policy states that bad faith can be shown where “by using the domain name [respondent has] intentionally attempted to attract, for commercial gain, Internet users to [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 [respondent’s] website or location or of a product or service on [the] web site or location”. As noted in Section 4 of this Panel’s decision, although the disputed domain name resolves to an inactive web page, Respondent has used the disputed domain name to set up an email account in a manner apparently calculated to confuse potential business partners of Complainant into providing Respondent their sensitive personal and financial information.

Hence, Respondent is trading on the goodwill of Complainant’s trademarks to attract Internet users, presumably for Respondent’s own commercial gain. The Panel thus finds that despite the passive website use, Respondent registered and used the disputed domain name with knowledge of Complainant’s prior rights, thereby evidencing bad faith. See [WIPO Overview 3.0](#), Section 3.3, which notes that the “non-use of a domain name” does not necessarily negate a finding of bad faith, but rather, that a panel must examine “the totality of the circumstances”. This is particularly so, given the use of the disputed domain name, which indicates an apparent familiarity with Complainant and its marks and Respondent’s targeting thereof.

Overall, the Panel finds that Respondent registered and used the disputed domain name in bad faith for purposes of paragraph 4(a)(iii) of the Policy.

7. Decision

For all 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, <hyster-yaleus.com>, be transferred to Complainant.

/Lorelei Ritchie/

Lorelei Ritchie

Sole Panelist

Dated: March 13, 2023