

ADMINISTRATIVE PANEL DECISION

Protective Life Insurance Company v. Lisa Ehmke
Case No. D2023-0428

1. The Parties

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

The Respondent is Lisa Ehmke, United States.

2. The Domain Name and Registrar

The disputed domain name <protectivelifecorp.com> (the “Disputed Domain Name”) 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 January 31, 2023. On January 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On February 1, 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 (None Given) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 1, 2023 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 February 1, 2023.

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 February 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 24, 2023.

The Center appointed Lynda M. Braun as the sole panelist in this matter on February 28, 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 life insurance and annuity carrier based in Birmingham, State of Alabama, United States, that offers a broad portfolio of life and specialty insurance and investment products and services throughout the United States.

The Complainant has made continuous and exclusive use of the trademark PROTECTIVE in connection with its life, health and accident insurance and annuities services for over 112 years. As a result of its long and substantial use of the PROTECTIVE trademark, consumers throughout the United States have come to recognize the trademark and associate the mark exclusively with the Complainant and the services it offers.

The Complainant owns the PROTECTIVE trademark with the United States Patent and Trademark Office (“USPTO”), United States Registration No. 4,727,173, registered on April 28, 2015, with a date of first use anywhere of 1908 and date of first use in commerce of 1908, in International Classes 35 and 36. The Complainant also claims common law trademark rights in the PROTECTIVE Mark, as its date of first use anywhere and its date of first use in commerce was in the year 1908. The foregoing trademarks will hereinafter collectively be referred to as the “PROTECTIVE Mark”.

The Complainant also owns the domain name <protective.com>, which resolves to the Complainant’s official website at “www.protective.com”, where information about the Complainant is located.

The Disputed Domain Name was registered on October 19, 2022 and resolves to an error landing page. The Respondent uses the Disputed Domain Name to create email addresses incorporating the Disputed Domain Name which is used as part of a phishing scheme to impersonate the Complainant’s Human Resources (“HR”) Manager to communicate with individuals seeking employment with the Complainant. Specifically, the Respondent uses the Disputed Domain Name to send fraudulent emails from an outgoing email server containing the Disputed Domain Name as an email suffix.¹ The Respondent sends these emails to job-seeking individuals, claiming to be from the Complainant’s HR Manager, and inviting job applicants to conduct online interviews. Subsequently, the Respondent asks the applicants to provide personal and/or confidential information. The Respondent attempts to mislead recipients of the emails into believing that the Respondent is the Complainant, or that the emails originate from the Complainant, which they do not.

5. Parties’ Contentions

A. Complainant

The following are the Complainant’s contentions:

- the Disputed Domain Name is confusingly similar to the Complainant’s PROTECTIVE Mark.
- the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.
- the Disputed Domain Name was registered and is being used in bad faith.
- the Complainant seeks the transfer of the Disputed Domain Name from the Respondent to the Complainant in accordance with paragraph 4(i) of the Policy.

¹ The email address that the Respondent uses to impersonate the Complainant’s HR Manager is “jobs@protectivelifecorp.com.”

B. Respondent

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

6. Discussion and Findings

In order for the Complainant to prevail and have the Disputed Domain Name transferred to the Complainant, the Complainant must prove the following (Policy, paragraph 4(a)):

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

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a two-fold inquiry, a threshold investigation into whether a complainant has rights in a trademark, followed by an assessment of whether the disputed domain name is identical or confusingly similar to that trademark. The Panel concludes that in the present case, the Disputed Domain Name is confusingly similar to the PROTECTIVE Mark.

It is uncontroverted that the Complainant has established rights in the PROTECTIVE Mark based on its fame, its use since 1908, and its registered trademark for the PROTECTIVE Mark with the USPTO. The registration of a mark satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. As stated in section 1.2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "[w]here the complainant holds a nationally or regionally registered trademark or service mark, this *prima facie* satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case". Thus, the Panel finds that the Complainant satisfied the threshold requirement of having rights in the PROTECTIVE Mark.

The Disputed Domain Name consists of the PROTECTIVE Mark in its entirety followed by the terms "life" and "corp", and then followed by the generic Top-Level Domain ("gTLD") ".com". It is well established that a domain name that wholly incorporates a trademark may be deemed confusingly similar to that trademark for purposes of the Policy despite the addition of other terms. As stated in section 1.8 of [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".

Finally, the addition of a gTLD such as ".com" in a domain name is a technical requirement. Thus, it is well established that such element may typically be disregarded when assessing whether a disputed domain name is identical or confusingly similar to a trademark. See *Proactiva Medio Ambiente, S.A. v. Proactiva*, WIPO Case No. [D2012-0182](#) and [WIPO Overview 3.0](#), section 1.11.1. Thus, the Disputed Domain Name is confusingly similar to the Complainant's PROTECTIVE Mark.

Accordingly, the Panel finds that the first element of paragraph 4(a) of the Policy has been met by the Complainant.

B. Rights or Legitimate Interests

Under the Policy, a complainant has to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such a *prima facie* case is made, the respondent

carries the burden of production of evidence that demonstrates rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant may be deemed to have satisfied paragraph 4(a)(ii) of the Policy. See [WIPO Overview 3.0](#), section 2.1.

In this case, given the facts as set out above, the Panel finds that the Complainant has made out a *prima facie* case. The Respondent has not submitted any arguments or evidence to rebut the Complainant's *prima facie* case. Furthermore, the Complainant has not authorized, licensed or otherwise permitted the Respondent to use its PROTECTIVE Mark. Nor does the Complainant have any type of business relationship with the Respondent. There is also no evidence that the Respondent is commonly known by the Disputed Domain Name or by any similar name, nor any evidence that the Respondent was using or making demonstrable preparations to use the Disputed Domain Name in connection with a *bona fide* offering of goods or services. See Policy, paragraph 4(c). In addition, the Respondent's use of emails incorporating the Disputed Domain Name to pass itself off as the Complainant does not constitute a *bona fide* offering of goods or services or a legitimate noncommercial or fair use.

Moreover, the composition of the Disputed Domain Name, comprising the entirety of the PROTECTIVE Mark, carries a risk of implied affiliation and cannot constitute fair use here, as it effectively suggests sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1

In sum, the Panel finds that the Complainant has established an un rebutted *prima facie* case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name.

Accordingly, the Panel finds that the second element of paragraph 4(a) of the Policy has been met by the Complainant.

C. Registered and Used in Bad Faith

The Panel finds that based on the record, the Complainant has demonstrated the existence of the Respondent's bad faith registration and use of the Disputed Domain Name pursuant to paragraph 4(a)(iii) of the Policy.

First, the Respondent's phishing scheme to email job-seeking individuals fraudulent job offers purporting to come from the Complainant, and to collect the personal and confidential information of such individuals, evidences a clear intent to disrupt the Complainant's business, deceive individuals, and trade off the Complainant's goodwill by creating an unauthorized association between the Respondent and the Complainant's PROTECTIVE Mark. See *Banco Bradesco S.A. v. Fernando Camacho Bohm*, WIPO Case No. [D2010-1552](#). Such conduct is emblematic of the Respondent's bad faith registration and use of the Disputed Domain Name. Numerous UDRP panels have found that email-based phishing schemes that use a complainant's trademark in the disputed domain name are evidence of bad faith. See, e.g., *DeLaval Holding AB v. Registration Private, Domains By Proxy LLL / Craig Kennedy*, WIPO Case No. [D2015-2135](#); *CMA CGM v. Diana Smith*, WIPO Case No. [D2015-1774](#).

Second, the registration of a domain name that is confusingly similar to a registered trademark by an entity that has no relationship to that mark may be sufficient evidence of opportunistic bad faith. See *Ebay Inc. v. Wangming*, WIPO Case No. [D2006-1107](#); *Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.*, WIPO Case No. [D2000-0163](#) (use of a name connected with such a well-known service and product by someone with no connection to the service and product suggests opportunistic bad faith). Based on the circumstances here, the Respondent registered and used the Disputed Domain Name in bad faith in an attempt to create a likelihood of confusion with the Complainant's PROTECTIVE Mark.

Accordingly, the third element of paragraph 4(a) of the Policy has been met by the Complainant.

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 <protectivelifecorp.com> be transferred to the Complainant.

/Lynda M. Braun/

Lynda M. Braun

Sole Panelist

Date: March 10, 2023