

ADMINISTRATIVE PANEL DECISION

CWI, Inc. v. Nicholas Holt
Case No. D2023-3269

1. The Parties

Complainant is CWI, Inc., United States of America (“United States”), represented by Neal & McDevitt, United States.

Respondent is Nicholas Holt, United States.

2. The Domain Name and Registrar

The disputed domain name <campingworldpros.com> is registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 28, 2023. On July 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 31, 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 (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to Complainant on August 1, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on August 4, 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 August 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 30, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 31, 2023.

The Center appointed Frederick M. Abbott as the sole panelist in this matter on September 5, 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 owner of registrations for the word, and word and design, trademark CAMPING WORLD on the Principal Register of the United States Patent and Trademark Office (USPTO), including word trademark registration number 4,536,313, registration dated May 27, 2014, in international classes (ICs) 35 and 37, covering, *inter alia*, retail store and online services in the field of recreational vehicles and equipment, and camping equipment; word and design trademark registration number 4,536,315, registration dated May 27, 2014, in ICs 35 and 37, covering, *inter alia*, retail store and online services in the field of recreational vehicles and equipment, and camping equipment, and; word trademark registration number 930,179, registration dated February 29, 1972, in IC 42, covering retail and mail order sale of camping equipment, recreational vehicles and supplies.¹

Complainant directly, and indirectly through licensees and affiliated entities, operates a large network of recreational vehicle (“RV”), and RV equipment, accessory and service centers, in the United States under the CAMPING WORLD trademark. Complainant operates a commercial website at “www.campingworld.com”. Complainant invests substantial resources in marketing, promoting and advertising its goods and services provided under the CAMPING WORLD trademark.

According to the Registrar’s verification, Respondent is registrant of the disputed domain name. According to ICANN lookup data furnished by Complainant, the record of registration for the disputed domain name was created on February 27, 2023. There is no indication that any party other than Respondent has owned or controlled the disputed domain name since its creation date.

Respondent has directed the disputed domain name to a website identified as Ichor Health which refers to its business as a “health and life coaching firm with emphasis on the spiritual aspects of health”. Respondent is listed as the counselor providing services through the aforesaid website, which offers appointments via a scheduling button. There is no reference to Complainant or to the disputed domain name on Respondent’s Ichor Health website.

5. Parties’ Contentions

A. Complainant

Complainant alleges that it owns rights in the CAMPING WORLD trademark and that the disputed domain name is confusingly similar to that trademark.

Complainant contends that Respondent lacks rights or legitimate interests in the disputed domain name because: (1) there has never been any relationship between Respondent and Complainant that might have giving rise to any licensing, sponsorship or other permission for Respondent to register or use the disputed domain name; (2) Respondent has not provided any evidence of legitimate noncommercial use or fair use of the disputed domain name, and; (3) Respondent is not commonly known by the disputed domain name.

Complainant argues that Respondent registered and uses the disputed domain name in bad faith because: (1) Complainant’s trademark is well known and Respondent must have been aware of Complainant’s rights in its trademark when it registered the disputed domain name; (2) there is no evidence that suggests that Respondent is known by Complainant’s trademark or the disputed domain name, or that it is offering any services that make fair use of Complainant’s trademark; (3) Respondent is diverting Internet users to its

¹ According to the documents provided by complainant (Annex 4), the original registrant for the 1972 USPTO registration, “Camping World, Inc.”, is a Kentucky corporation. This differs from the named Complainant. Complainant has not provided evidence of assignment of the 1972 registration to the named Complainant. The Panel visited the website of USPTO and noted that Complainant has been listed as the “LAST LISTED OWNER”. The Panel also notes that the other registrations listed above refer to Complainant as the owner of this 1972 registration.

website by association with Complainant's well-known trademark, which is used in full in the disputed domain name, and; (4) Respondent employed a privacy service in connection with the disputed domain name.

Complainant requests the Panel to direct the Registrar to transfer the disputed domain name to Complainant.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

The registration agreement between Respondent and the Registrar subjects Respondent to dispute settlement under the Policy. The Policy requires that domain name registrants submit to a mandatory administrative proceeding conducted by an approved dispute resolution service provider, one of which is the Center, regarding allegations of abusive domain name registration and use (Policy, paragraph 4(a)).

It is essential to Policy proceedings that fundamental due process requirements be met. Such requirements include that a respondent have notice of proceedings that may substantially affect its rights. The Policy and the Rules establish procedures intended to ensure that respondents are given adequate notice of proceedings commenced against them and a reasonable opportunity to respond (see, e.g., Rules, paragraph 2(a)).

The Center formally notified the Complaint to Respondent at the email and physical address provided in its record of registration. Courier delivery of the Written Notice to Respondent was successfully completed while the transmission of Notification of the Complaint to Respondent by email failed because "the recipient's email system refused to accept a connection". The Center took those steps prescribed by the Policy and the Rules to provide notice to Respondent, and those steps are presumed to satisfy notice requirements.

Paragraph 4(a) of the Policy sets forth three elements that must be established by a complainant to merit a finding that a respondent has engaged in abusive domain name registration and use and to obtain relief. These elements are that:

- (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 has been registered and is being used in bad faith.

Each of the aforesaid three elements must be proved by a complainant to warrant relief.

A. Identical or Confusingly Similar

Complainant has provided evidence of rights in the trademark CAMPING WORLD, including by registration at the USPTO and through use in commerce. Respondent has not challenged Complainant's assertion of rights. The Panel determines that Complainant owns rights in the trademark CAMPING WORLD.

The disputed domain name directly and fully incorporate Complainant's CAMPING WORLD trademark. This is sufficient to establish confusing similarity between Complainant's trademark and the disputed domain name within the meaning of the Policy. Addition by Respondent of "pros" to Complainant's trademark in the disputed domain name does not prevent a finding of confusing similarity.²

² Addition of the generic Top-Level Domain (gTLD) ".com" in the disputed domain name does not affect the Panel's assessment of confusing similarity in the circumstances here.

The Panel determines that Complainant owns rights in the trademark CAMPING WORLD, and that the disputed domain name is confusingly similar to that trademark.

B. Rights or Legitimate Interests

Complainant's allegations to support Respondent's lack of rights or legitimate interests in the disputed domain name are outlined above, and the Panel finds that Complainant has made a *prima facie* showing that Respondent lacks rights or legitimate interests in the disputed domain name.

Respondent has not replied to the Complaint and has not attempted to rebut Complainant's *prima facie* showing of lack of rights or legitimate interests.

Respondent has used the disputed domain name to direct Internet users to a commercial website purportedly offering life and health counseling services. There is no evident basis for association with Complainant in terms of legitimate noncommercial or fair use of Complainant's trademark. Respondent's use of Complainant's trademark to divert Internet user traffic to Respondent's website takes unfair advantage of the goodwill associated with Complainant's trademark and does not establish rights or legitimate interests on the part of Respondent.

Respondent has not sought to challenge the evidence submitted by Complainant.

Respondent's actions do not otherwise manifest rights or legitimate interests in the disputed domain name.

The Panel determines that Complainant has established that Respondent lacks rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

In order to prevail under the Policy, Complainant must demonstrate that the disputed domain name "has been registered and is being used in bad faith" (Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy states that "for the purposes of paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith". These include that, "(i) circumstances indicating that [the respondent has] registered or [has] 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 [the respondent's] documented out-of-pocket costs directly related to the domain name; [...] or (iv) by using the domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] 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 [the respondent's] website or location or of a product or service on [the respondent's] website or location".

Respondent has registered and used the disputed domain name that is confusingly similar to Complainant's CAMPING WORLD trademark after Complainant acquired rights in its trademark, and after Complainant established a substantial online presence under its trademark. A routine Google or other search of the term "Camping World" would have predominantly identified Complainant and its trademark for Respondent. Respondent knew or should have known of Complainant's trademark rights when it registered and used the disputed domain name.

Respondent has used the disputed domain name to direct Internet users to its own website. It appears that Respondent was attempting to take advantage of Internet user association with Complainant's brand name to secure traffic for Respondent's website which presumably is operated for commercial gain. Absent some other explanation, the motive or intent appears to involve some expectation on the part of Respondent that an Internet user finding itself on Respondent's website would decide to engage Respondent's services. Such use evidences bad faith in the sense of Respondent intentionally for

commercial gain using Complainant's trademark to attract Internet users to Respondent's website by creating Internet user confusion as to Complainant acting as source, sponsor, affiliate or endorser of Respondent's website.

Respondent's lack of association with Complainant or its business also suggests that Respondent may have registered the disputed domain name for purposes of selling it to Complainant or a third party.

The Panel determines that Respondent registered and is using the disputed domain name in bad faith within the meaning of paragraph 4(b) 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, <campingworldpros.com>, be transferred to Complainant.

/Frederick M. Abbott/

Frederick M. Abbott

Sole Panelist

Date: September 18, 2023