

ADMINISTRATIVE PANEL DECISION

Christus Health v. Admin Support, Neural Media, Inc.
Case No. D2023-4981

1. The Parties

Complainant is Christus Health, United States of America (“United States”), represented by Dykema Gossett PLLC, United States.

Respondent is Admin Support, Neural Media, Inc., United States.

2. The Domain Name and Registrar

The disputed domain name <christus.org> (the “Domain Name”) is registered with Domain.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 29, 2023. On November 29, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 30, 2023, the Registrar transmitted by email to the Center its verification response confirming that 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 Respondent of the Complaint, and the proceedings commenced on December 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 9, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on January 10, 2024.

The Center appointed Robert A. Badgley as the sole panelist in this matter on January 17, 2024. 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

According to the Complaint:

“Complainant, Christus Health, is a global health system made up of more than six hundred centers, including hospitals, clinics, and long term care facilities across the United States, Mexico, and South America. Christus Health was formed as a Catholic not-for-profit health system in 1999 from two other Catholic health systems, which together provided nearly a century of healing ministry. Today, Christus Health employs close to fifty thousand people, including over fifteen thousand physicians which provide individualized care.”

Complainant alleges as follows: “Since its formation, Christus Health has spent significant time, money, and effort in building and protecting its brand image, which includes numerous registrations for its CHRISTUS trademarks.”

Complainant holds numerous registrations for the mark CHRISTUS, the mark CHRISTUS HEALTH, and related marks, including United States Patent and Trademark Office Reg. No. 2,517,858 for the word mark CHRISTUS, registered on December 11, 2001 in connection with, among other things, “occupational medicine, [...] minor emergency services, [...] physical examinations, [...] pharmacy services, [...] nursing services, hospitals, clinic, [...],” with a February 1, 2000 date of first use in commerce.

Complainant owns the domain name <christushealth.org> and operates a commercial website via that domain name.

The Domain Name was registered on August 11, 1997. Complainant does not allege, or provide evidence, that Respondent was not the original registrant of the Domain Name. As of November 28, 2023, the Domain Name resolved to an error page.

5. Parties’ Contentions

A. Complainant

Complainant asserts that it has established the three elements required under the Policy for a transfer of the Domain Name.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

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

A. Identical or Confusingly Similar

The Panel concludes that Complainant has rights in the mark CHRISTUS through registration and use demonstrated in the record. The Panel also finds the Domain Name to be identical to that mark.

Complainant has established Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] 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 [Respondent] (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 [Respondent] 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.

The Panel need not address this element, given its conclusion below on the “bad faith” issue.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation,” are evidence of the registration and use of the Domain Name in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has 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 Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

The entirety of Complainant’s argument on the “bad faith” issue is as follows:

“A complainant need not show bad faith under all four of these factors [see the four factors quoted immediately above] but need only show bad faith as to one. In the instant case, factors (ii) and (iv) are most relevant.”

“It is clear in this instance Respondent registered the Disputed Domain Name for the primary purpose of disrupting Complainant’s business by creating a likelihood of confusion with Complainant’s CHRISTUS Marks as to the source, sponsorship, affiliation or endorsement of any future website and/or to prevent Complainant from having access to the Disputed Domain Name.”

“Respondent is on constructive notice, as the CHRISTUS trademark is a registered trademark in the United States by virtue of Complainant’s Federal trademark registrations with the U.S. Trademark Office, combined with over twenty (20) years of use in the United States. Given Complainant’s reputation and the ubiquitous presence of Complainant’s distinctive CHRISTUS Marks on the Internet and on hospital and healthcare service signage throughout the United States and other countries, it can only logically follow that Respondent was aware of the CHRISTUS Marks prior to registering the Disputed Domain Name, which consists of the trademark in its entirety. The passive or inactive holding of a disputed domain that incorporates a registered trademark, without a legitimate Internet purpose, clearly indicates that the domain name is being used in bad faith. Numerous UDRP panels have concluded the same, namely finding that under section 3.3 of the [WIPO Overview 3.0](#), the non-use of a domain name, would not prevent a finding of bad faith under the doctrine of passive holding. See *Accenture Global Services Limited v. Withheld for Privacy Purposes, Privacy service provided by Withheld for Privacy ehf / AIDAN CHIEN*, WIPO Case No. [D2021-2684](#) (October 13, 2021). In addition, previous UDRP panels have concluded that the passive holding of a domain name that incorporates a well-known trademark may confirm the bad faith use of a disputed domain name (see *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#) (February 18, 2000) “The lack of use [of a domain name] by itself does not indicate anything”).”

“Without question, Respondent registered and is using the Disputed Domain Name in bad faith under paragraph 4(a)(iii) of the Policy, and the Disputed Domain Name should be transferred to Complainant.”

Notwithstanding the assertions that Respondent “without question” has registered and used the Domain Name in bad faith, and that Respondent “clearly” registered the Domain Name to disrupt Complainant’s business and divert Internet traffic for commercial gain by engendering confusion with Complainant’s mark, the Panel sees nothing in the record to support these claims. Merely reciting the elements of bad faith under the UDRP, even when adorned with a “clearly,” does not suffice for a domain name transfer.

First, although Complainant invokes Policy paragraphs 4(b)(ii) and 4(b)(iv), quoted above, as being applicable here, Complainant has not demonstrated that Respondent has engaged in a pattern of preclusive registrations (4(b)(ii)), nor that Respondent has used the Domain Name to attract Internet users, for commercial gain, by creating confusion between Complainant’s mark and the Domain Name (4(b)(iv)).

Second, Complainant argues that Respondent received “constructive notice” of its CHRISTUS mark, but that fact does not establish bad faith registration under the UDRP. The concept of constructive notice, a legal incident to having a registered trademark under United States trademark law, may support an infringement action in a court of law under certain circumstances, but it is no substitute for actual notice, which is what is generally considered under the UDRP’s “bad faith” concept. It is axiomatic under the UDRP that a complainant must show, on a balance of probabilities, that the respondent more likely than not had the complainant’s trademark in mind when registering the subject domain name.

Such a showing has not been made here. The word “Christus” is Latin for Christ, and one can readily imagine myriad legitimate uses of that word in a domain name which have nothing to do with Complainant and its services. The record here shows no use of the Domain Name or other conduct which might suggest that Respondent registered the Domain Name in order to target Complainant’s mark.

Third, Complainant has not argued, or provided any supporting evidence, that Respondent acquired the Domain Name after Complainant began to use its CHRISTUS mark in commerce back in 2000. As noted above, the Domain Name was registered in 1997, three years before Complainant’s CHRISTUS mark came into being. Absent any argument or evidence that Respondent first acquired the Domain Name at some point after Complainant’s trademark rights were established, there simply can be no finding that Respondent registered the Domain Name with Complainant’s mark in mind.

Finally, because bad faith registration has not been established here, the Panel need not address Complainant's argument about Respondent's passive holding of the Domain Name. The Panel does note, however, that the "passive holding" concept usually requires a finding that, under the circumstances of the case, there is no conceivable good faith use to which the subject domain name could be put by the respondent. As noted above, the word "Christus" is eminently capable of referring to something other than Complainant's business and trademark.

Accordingly, the Panel finds the third element of the Policy has not been established and the Complaint fails.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: January 26, 2024