

ADMINISTRATIVE PANEL DECISION

Regal Cinemas, Inc. v. Hew Soon Lee
Case No. D2023-5238

1. The Parties

The Complainant is Regal Cinemas, Inc., United States of America (“United States”), represented by Bryan Cave Leighton Paisner LLP, United States.

The Respondent is Hew Soon Lee, Malaysia.

2. The Domain Name and Registrar

The disputed domain name <rgcinemas.com> is registered with PSI-USA, Inc. dba Domain Robot (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 15, 2023. On December 18, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 20, 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 (Unidentified Domain Name Registrant) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 8, 2024, 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 amended Complaint on January 8, 2024.

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 the Respondent of the Complaint, and the proceedings commenced on January 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 2, 2024.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on February 8, 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

The following facts are undisputed.

The Complainant operates, along with its parent and affiliate companies, movie theatre circuits throughout the United States. Formed in 1989, the Complainant operates one of the largest theatre circuits in the United States, consisting of over 450 theatres in more than 42 states and territories.

The Complainant markets and promotes its movie theatre circuits and related services also through the websites to which its domain names <regalcinemas.com> and <regmovies.com>, resolve. These domain names have been registered in 1996 and 2002, respectively. On the websites consumers can also join a loyalty program, which requires additional information.

The Complainant and/or its affiliates own several trademark registrations, including the following registrations:

- United States trademark for REGAL CINEMAS, registered on May 9, 1995, with registration number 1893390;
- United States trademark for the combined word / device mark (logo), consisting of an R in a circle followed by the word element REGAL, registered on March 3, 2020, with registration number 6001723.

("Trademarks")

The Complainant's Trademarks cover services in class 41, e.g., movie theaters.

All of the Complainant's Trademarks were registered before the disputed domain name, which was registered on November 22, 2023.

At the time of filing the Complaint, the disputed domain name resolved to a website which purportedly offered access to the loyalty program of the Complainant or at least mimics the Complainant's loyalty program by e.g., depicting the Complainant's logo. This website appears to be the identical fraudulent website at a domain name that was previously the subject of an UDPR complaint filed by the Complainant.

The Complainant filed abuse reports to the registrar and webhosting service of the disputed domain name, given the illegal and fraudulent conduct. Therefore, the disputed domain name is currently not resolving to an active website.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends the following:

The Complainant has invested substantial financial and other resources in developing the reputation and goodwill of its Trademarks. Therefore, consumers can join the Complainant's loyalty rewards program through the website, which requires them to provide personal information, including their name, phone number, email address, and a unique password.

The disputed domain name resolved to a website that seems to be a fraudulent website impersonating the loyalty program of the Complainant in order to acquire personal information and money from consumers. This website is identical to a previous fraudulent website for which the Complainant signed an agreement for to make sure it was no longer used.

The Respondent is trying to pass itself off as the Complainant. The disputed domain name differs in three letters from the domain name of the Complainant and resolved to a fake website attempting to mimic the Complainant's real website. For this the Respondent also used the Complainant's Trademarks on its website. The fraudulent behavior becomes more clear from the text exchange between a consumer and the Respondent, where the Respondent requested money for the "regal account" with the use of the trademark of the Complainant.

Following the circumstances under which the Respondent is attempting to impersonate the Complainant and uses the Complainant's Trademarks for illegitimate commercial gain, the disputed domain name is confusingly similar to one or more of the Complainant's Trademarks.

Because of the impersonation the Respondent cannot have a legitimate interest or rights to the disputed domain name. The disputed domain name is used illegitimately for attempted thievery and phishing for personal information for the Respondent's own commercial gain. The Respondent is not in any way associated or authorized by the Complainant. As far as the Complainant knows, there is clearly no intention to make use of the disputed domain name for a legitimate purpose.

The Respondent's fraudulent website and the text exchange prove the fraudulent scheme and conclusively establishes a bad faith registration and use of the disputed domain name. Although the Respondent's website is not identical to the official website of the Complainant, it is clearly intended to mimic that website and trick visitors into believing they have reached the official website after which consumers disclose their personal information.

B. Respondent

The Respondent did not reply to the Complainant's contentions

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. In specific limited instances, while not a replacement as such for the typical side-by-side comparison, where a panel would benefit from affirmation as to confusing similarity with the complainant's mark, the broader case context such as website content trading off the complainant's reputation, or a pattern of multiple respondent domain names targeting the complainant's mark within the same proceeding, may support a finding of confusing similarity. In this context, panels have also found that the overall facts and circumstances of a case (including relevant website content) may support a finding of confusing similarity, particularly where it appears that the respondent registered the domain name precisely because it believed that the domain name was confusingly similar to a mark held by the complainant. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark REGAL CINEMAS is recognizable within the disputed domain name. Also, in light of the overall facts and circumstances of the matter, and in particular the use of the disputed domain name for a website clearly targeting the Complainant's marks, the Panel finds the disputed domain name is confusingly similar to REGAL CINEMAS for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity, as applicable to this case: phishing, unauthorized account access/hacking, impersonation/passing off can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's Trademarks.

Panels have held that the use of a domain name for illegal activity as applicable to this case: phishing, unauthorized account access/hacking, impersonation/passing off constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the Complainant has established the third element 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 <rgcinemas.com>, be transferred to the Complainant.

/Willem J. H. Leppink/

Willem J. H. Leppink

Sole Panelist

Date: February 21, 2024