

ADMINISTRATIVE PANEL DECISION

Halliburton Energy Services, Inc. v. xuxu, xuxu
Case No. DCC2023-0012

1. The Parties

The Complainant is Halliburton Energy Services, Inc., United States of America (“United States”), represented by Polsinelli PC Law firm, United States.

The Respondent is xuxu, xuxu, China

2. The Domain Name and Registrar

The disputed domain name <halliburton.cc> is registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 14, 2023. On August 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 18, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on August 22, 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 amended Complaint on August 22, 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 the Respondent of the Complaint, and the proceedings commenced on August 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 13, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 14, 2023.

The Center appointed Christian Pirker as the sole panelist in this matter on September 19, 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

Founded in 1919, Halliburton is one of the world's largest providers of products and services to the energy industry, operating in approximately 70 countries. The Complainant has provided evidence of trademark registrations for HALLIBURTON trademark (and including this term) in the United States for various products and services, such as Registration No. 2575819 registered on June 4, 2002. The Complainant has also registered a domain name in 1995 containing its HALLIBURTON trademark for its official website at "www.halliburton.com" to represent the company on the Internet.

The Respondent is reportedly located in Hong-Kong, China.

The disputed domain name <halliburton.cc> was registered on August 7, 2023, and previously resolved to a website which copied an image of the Complainant's website including its trademark, but became inactive after the beginning of the present proceeding.

5. Parties' Contentions

A. Complainant

The Complainant alleges that the HALLIBURTON trademark has become distinctive and well-known since long prior to the date which the Respondent registered the disputed domain name.

The Complainant alleges that the disputed domain name is identical to the Complainant well-known trademark.

The Complainant asserts that it has not authorized the Respondent to register the disputed domain name, nor does it maintain any affiliations or licensing relationship with the Respondent.

The Complainant asserts that the Respondent was familiar with the HALLIBURTON trademark at the time it registered the disputed domain name since the site was utilizing images of the Complainant's website without authorization. Moreover, due to the large size of the Complainant's company, the use of the country code Top-Level Domain ("ccTLD") ".cc" may mislead customers or vendors to assume that the disputed domain name is related to the Complainant and its business.

Accordingly, the Complainant alleged that the Respondent registered the disputed domain name in order to take advantage of the Complainant's goodwill and reputation for a commercial gain.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, the Complainant must prove each of the following:

(i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(ii) that the Respondent has no rights or legitimate interests in the disputed domain name; and

(iii) that the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

According to the submitted evidence, the Complainant is the owner of the registered trademark HALLIBURTON. The disputed domain name comprises the Complainant's trademark in its entirety. The difference between the disputed domain name and the Complainant's trademark is the addition of the ccTLD suffix ".cc". However, it is standard practice to disregard the Top-Level Domain ("TLD") suffix under the confusing similarity test, except where the applicable TLD suffix may itself form part of the relevant trademark, which is not the case in the present matter. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.11.

Having the above in mind, the Panel concludes that the disputed domain name is identical to the Complainant's trademark and that the Complainant has fulfilled the requirement under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

According to paragraph 4(c) of the Policy, a respondent can establish its rights or legitimate interests in its domain name if it shows the presence of any of the following circumstances:

- (i) before any notice to the respondent of the dispute, the respondent's 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) the respondent (as an individual, business, or other organization) has been commonly known by the domain name, even if the respondent has acquired no trademark or service trademark rights; or
- (iii) the respondent is 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 trademark at issue.

While 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant alleges that the Respondent has no rights or legitimate interests in the disputed domain name in view of the Respondent's lack of authorization to use the Complainant's distinctive trademark, the fact that the Respondent is not commonly known by the disputed domain name, and the use of the disputed domain name and images of the Complainant's website reflects the Respondent's purpose of exploiting the Complainant's rights, title, interest and goodwill in the HALLIBURTON mark.

The Respondent failed to respond to the Complaint.

The Panel finds that there is no evidence in the present matter that shows that the Respondent has rights or legitimate interests in the disputed domain name. Moreover, the Respondent used, without the Complainant's authorization, images from the Complainant's website. Given the identical nature of the disputed domain name as compared to the Complainant's trademark, it is evident that the Respondent

sought to capitalize on the high risk of implied affiliation by resolving the disputed domain name to a website further copying the Complainant's website image. Further, the Respondent appears to have deactivated its website after Complainant's has filed the case and never answered or participated to the case. Such facts demonstrate moreover the lack of a *bona fide* offering of goods or services, and globally of rights or legitimate interests in the disputed domain name.

Having considered the above, the Panel finds that the Complainant has fulfilled its obligations under the second element.

C. Registered and Used in Bad Faith

The third element to be established by the Complainant is that the disputed domain name has been registered and is being used in bad faith.

Paragraph 4(b) of the Policy states the following four (non-exclusive) circumstances which, if found to be present, are deemed to provide evidence of bad faith in registering and using the disputed domain name:

- (i) Circumstances indicating that the Respondent has registered or the Respondent has acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to the Complainant who is the owner of the trademark or service trademark, or to a competitor of that the Complainant, for valuable consideration in excess of the Respondent documented out-of-pocket costs directly related to the disputed domain name; or
- (ii) The Respondent has registered the disputed domain name in order to prevent the owner of the trademark or service trademark from reflecting the trademark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or
- (iii) The Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) By using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or its location.

Although the above scenarios are non-exclusive, the Respondent's conduct enters paragraph 4(b)(iv) of the Policy.

It is a well-established principle that registration of a domain name that is confusingly similar to a well-known trademark by any entity that does not have a relationship with that trademark or its owner can by itself create a presumption of bad faith (see [WIPO Overview 3.0](#) section 3.1.4).

The website to which the disputed domain name resolved to, copies content from the Complainant's website and mentions information about the Complainant, and this is sufficient to prove that the Respondent is well aware of the Complainant (see *Birkenstock Orthopädie GmbH & Co. KG v. Chen Yanbing*, WIPO Case No. [D2010-0746](#)).

Based on the evidence submitted by the Complainant, the Panel accepts that the trademark HALLIBURTON is *prima facie* well-known, such finding remains in view of the absence of a Response (see *Birkenstock Orthopädie GmbH & Co. KG v. Chen Yanbing*, WIPO Case No. [D2010-0746](#)).

That being said, the mere use of the Complainant's trademark in both the disputed domain name that is identical to the Complainant's distinctive trademark except for the ccTLD and within some content copied from the Complainant's website, is *per se* evidence of bad faith registration and use.

Since the present proceeding was initiated the disputed domain name is inactive, thus it may be added that the consensus view amongst UDRP panelists is that “[...] the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put.” See section 3.3 of the [WIPO Overview 3.0](#).

The Panel accepts the Complainant’s assertion that the Respondent has used and intend to use the disputed domain name to intentionally exploit the Complainant’s rights, interest and goodwill in its trademark. Further, it prevents the Complainant from reflection its mark in a corresponding domain in the ccTLD suffix “.cc”, which stands for Cocos Islands, Australia,. Such use reinforces the false impression that the disputed domain name is the Complainant’s website for this geographic area market. The Panel accepts moreover the Complainant’s assertion that HALLIBURTON is a well-known trademark. The Complainant has registered numerous trademarks and its domain name registration predates significantly the registration date of the disputed domain name.

Accordingly, the Panel finds that the Respondent was aware of the Complainant’s trademarks when registering the disputed domain name. In view of the above-mentioned facts, the Panel concludes that the Respondent’s primary motive in relation to the registration and use of the disputed domain name was to capitalize on, or otherwise take advantage of, the Complainant’s trademark rights, by creating a likelihood of confusion with the Complainant’s mark with the intent to unlawfully profit therefrom (see *Arla Foods Amba v. Michael Guthrie, M. Guthrie Building Solutions*, WIPO Case No. [D2016-2213](#)). Furthermore, given the overall circumstances of this case as mentioned hereabove the Panel considers that the Respondent’s brief use and subsequent non-use of the disputed domain name is in bad faith..

The Complainant has fulfilled the third element under paragraph 4(a) 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, <halliburton.cc>, be transferred to the Complainant

/Christian Pirker/

Christian Pirker

Sole Panelist

Date: October 27, 2023