

ADMINISTRATIVE PANEL DECISION

Tempcover Ltd v. temp cover, tempcoveruk
Case No. D2024-2004

1. The Parties

The Complainant is Tempcover Ltd, United Kingdom (“UK”), represented by AA Thornton IP LLP, UK.

The Respondent is temp cover, tempcoveruk, UK.

2. The Domain Name and Registrar

The disputed domain name <tempcoveruk.com> is registered with Hostinger Operations, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 14, 2024. On May 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 20, 2024, 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 (Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 23, 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 amendment to the Complaint on May 28, 2024.

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 May 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 17, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 18, 2024.

The Center appointed Antony Gold as the sole panelist in this matter on June 26, 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 Complainant is part of the RVU group of companies which is based in the UK and is active in the fields of financial services and insurance. The Complainant commenced business in 2006 and provides flexible short-term motor vehicle insurance cover. Its trading style was initially “Temporary Cover” but it rebranded to “Temporary.Com” in 2010 and now primarily uses the brand TEMPCOVER. By 2016 it had sold two million policies. The Complainant has won a number of industry awards for its services.

The Complainant owns trade marks which comprise or include the term “Tempcover”. These include, by way of example, UK trade mark registration for TEMPCOVER (stylized), registration number UK00003399923, in class 36, registered on August 16, 2019. It also operates the domain name <tempcover.com> which resolves to a website from which its services can be accessed.

The disputed domain name was registered on October 3, 2023. It has previously resolved to a website which purported to offer short term car insurance services and used the Complainant’s stylized mark, albeit with the letters “uk” added after “tempcover”. The website had a number of features that suggested that it was not being used to operate a genuine business. By way of example, there was no page anywhere on the website from which the Internet user could input details in order to obtain an insurance quote, the “click here” button and “My Account” button took the Internet user back to the top of the home page instead of linking to further information as one would expect, and there were stray references to a third party brand, suggesting the site content had been copied from another website.

The disputed domain name does not presently resolve 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 that:

- the disputed domain name is identical or confusingly similar to a trade mark in which it has rights, in that it incorporates the entirety of the Complainant’s TEMPCOVER mark and simply adds the descriptive term “uk”, which Internet users are likely to perceive as indicating the territory (United Kingdom, often shortened to “UK”) in which the services are available. This addition does not avoid the disputed domain name from being found confusingly similar to the Complainant’s mark;
- the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent was operating a website which was intended to look like that of the Complainant’s website but which was most likely a sham. The Respondent was more likely using an email address associated with the disputed domain name for the purpose of phishing or other financial fraud, that is for illegitimate financial gain. Moreover, there is no evidence that the Respondent has ever been known by the disputed domain name or that it is making a legitimate noncommercial or fair use of it;
- the disputed domain name was registered and is being used in bad faith. Given the Complainant’s significant reputation in its marks, it is inconceivable that the Respondent was unaware of the Complainant’s business when registering the disputed domain name. This is further evidenced by the Respondent’s use of the Complainant’s stylized mark on its website and its adoption of the same colour palette as that used by

the Complainant. By its use of the disputed domain name the Respondent has used an identical sign to purport to offer services identical to those for which the Complainant's marks are used. Such activity is not a good faith use of the disputed domain name and is very likely to divert actual or prospective customers of the Complainant's business away from the Complainant.

B. Respondent

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

6. Discussion and Findings

Dealing, first, with the Respondent's failure to file a response to the Complaint, paragraph 14(b) of the Rules provides that if a party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under, these Rules, the Panel shall be entitled to draw such inferences from this omission as it considers appropriate.

Paragraph 4(a) of the Policy provides that a complainant proves each of the following three elements in relation to a domain name in order to succeed in its complaint:

- (i) the domain name is identical or confusingly similar to a trade mark or service mark in which the complainant has rights; and
- (ii) the respondent has no rights or legitimate interests with respect to the domain name; and
- (iii) the domain name has been registered and is being used in bad faith.

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 trade mark and the disputed domain name; see the [WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition \("WIPO Overview 3.0"\)](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of its TEMPCOVER mark for the purposes of the Policy; see [WIPO Overview 3.0](#), section 1.2.1. As a technical requirement of registration, the generic Top-Level Domain ("gTLD"), that is ".com" in respect of the disputed domain name, is usually disregarded when assessing confusing similarity. The Complainant's TEMPCOVER mark is reproduced in its entirety in the disputed domain name and is clearly recognizable within it. The addition of the term "uk" to the disputed domain name does not prevent a finding of confusing similarity between it and the Complainant's TEMPCOVER mark for the purposes of the Policy. In this respect, see [WIPO Overview 3.0](#), section 1.8: "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".

For the above reasons, based on the available record, the Panel finds that 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 by which a respondent may demonstrate rights or legitimate interests in a domain name. Whilst 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 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 [WIPO Overview 3.0](#), section 2.1.

Having reviewed the 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. In particular, the Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. The Panel deals first with the former use of the disputed domain name to resolve to a website purporting to offer services identical to those of the Complainant and using its TEMPCOVER marks. It was evidently the Respondent's intention that Internet users familiar with the services of the Complainant who visited the Respondent's website would believe from the confusing similarity of the disputed domain name to the Complainant's mark, the website content and the Respondent's use of the Complainant's stylized mark that the Respondent's website was operated by the Complainant or with its authority. Such piggy-backing on the Complainant's reputation cannot comprise a bona fide offering of goods and services.

It is likely, on at least a balance of probabilities, that the Respondent was using the website to which the disputed domain name resolved, for an improper purpose, most likely for phishing or a similar activity. If this would be the case, previous UDRP panels have held that the use of a domain name for illegal activity, including phishing, distributing malware, impersonation/passing off, or other types of fraud, can never confer rights or legitimate interests on a respondent; see [WIPO Overview 3.0](#), section 2.13.1 and, by way of example, *Zions Bancorporation, N.A. v. George Gillespie*, WIPO Case No. [D2022-3197](#).

So far as the current, inactive status of the disputed domain name is concerned, the non-use of the disputed domain name self-evidently does not comprise use in connection with a bona fide offering of goods and services.

- there is no evidence in the record that the Respondent has been commonly known by the disputed domain name. The fact that the (probably false) registrant details provided by the Registrar record the registrant as "temp cover, tempcoveruk" does not, in itself, establish that this is a name by which the Respondent is commonly known. In this respect, see the [WIPO Overview 3.0](#), section 2.3.

- the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue; see [WIPO Overview 3.0](#), section 2.4.

- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the disputed domain name.

For the above reasons, based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

It is evident from the record that within a few months after the Respondent's registration of the disputed domain name in October 2023, it resolved to the website described above. This suggests an awareness by the Respondent of the Complainant's TEMPCOVER mark as at the date of registration of the disputed domain name as well as an intention on its part to take unfair advantage of it. Registration of a domain name by an unconnected party with knowledge of a complainant's trade mark registration and where the domain name is put to a misleading use establishes bad faith; see, for example, *Boursorama S.A. v. Sergey Ivanov*,

WIPO Case No. [D2022-4886](#). The Respondent's registration of the disputed domain name is accordingly in bad faith.

Dealing, first, with the prior use of the disputed domain name, paragraph 4(b) of the Policy sets out, without limitation, circumstances which, if found by a panel to be present, shall be evidence of the registration and use of a domain name in bad faith. The circumstance set out in paragraph 4(b)(iv) of the Policy is if a respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website. The use to which the Respondent has previously put the disputed domain name falls within this circumstance in that form of its website was intended to mislead Internet users into believing that it was operated, or authorized, by the Complainant. Such a belief will have been reinforced because of the confusing similarity between the disputed domain name and the Complainant's TEMPCOVER mark. The Respondent's motive was plainly commercial gain; see, by way of example, *BOURSORAMA S.A. v. Sergey Ivanov*, WIPO Case No. [D2022-4863](#). Having regard to the fact that it was not, apparently, possible to obtain an insurance quotation from the Respondent's website, it is more like than not that the Respondent sought to benefit from such the confusion caused to Internet users in some other improper manner. Were this be true, section 3.1.4 of the [WIPO Overview 3.0](#): "[...]given that the use of a domain name for per se illegitimate activity such as the sale of counterfeit goods or phishing can never confer rights or legitimate interests on a respondent, such behavior is manifestly considered evidence of bad faith".

So far as the current inactive status of the disputed domain name is concerned, from the inception of the UDRP, panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. See [WIPO Overview 3.0](#), section 3.3 and by way of example, *Johnson & Johnson v. Daniel Wistbacka*, WIPO Case No. [D2017-0709](#). Although 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, and (iv) the implausibility of any good faith use to which the domain name may be put.

Applying these factors to the circumstances of these proceedings: (i) the Complainant has provided evidence which establishes, for the purpose of the Policy, that its TEMPCOVER trade mark is distinctive in the context of the services for which it is registered; (ii) the Respondent has not provided a reply to the Complainant's contentions nor is there any evidence of actual or contemplated good faith use of the disputed domain name; (iii) the Respondent has sought to conceal its identity by its use of a privacy service; and (iv) there is no evidence of a plausible good faith use to which the Respondent might put the disputed domain name especially noting that the disputed domain name is inherently misleading. Accordingly, in the circumstances of this case, the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Having reviewed the record, and for the reasons set out above, the Panel finds the Respondent's registration and use of the disputed domain name has been in bad faith.

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 <tempcoveruk.com> be transferred to the Complainant.

/Antony Gold/

Antony Gold

Sole Panelist

Date: July 9, 2024