

ADMINISTRATIVE PANEL DECISION

PhotoCircle, Inc. v. Anthony Wood, c/o frank rimmerman
Case No. D2025-2352

1. The Parties

The Complainant is PhotoCircle, Inc., United States of America (“United States”), internally represented.

The Respondent is Anthony Wood, c/o frank rimmerman, United States, represented by Loeb & Loeb, LLP, United States.

2. The Domain Name and Registrar

The disputed domain name <photocircle.com> is registered with Tucows Domains Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 13, 2025. On June 16, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 16, 2025, 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 (Unknown Respondent c/o Contact Privacy Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 23, 2025, 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 June 26, 2025.

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 July 15, 2025. In accordance with the Rules, paragraph 5, the due date for Response was August 8, 2025. The Respondent sent an email communication to the Center on June 23, 2025, and the Response was filed with the Center on August 7, 2025. The Complainant filed a supplemental filing of August 9, 2025. The Respondent filed a supplemental filing on August 15, 2025.

The Center appointed Evan D. Brown as the sole panelist in this matter on August 18, 2025. 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 in the business of providing downloadable computer software for photo and file sharing and social networking. It owns the trademark PHOTOCIRCLE, for which it enjoys the benefits of registration (e.g., United States Reg. No. 7,359,940, registered on April 16, 2024).

According to the WhoIs records, the disputed domain name was registered on June 10, 2001. It appears that at least the past few years, the Respondent has not used the disputed domain name in connection with an active website.

5. Parties' Contentions

A. Complaint

The Complainant asserts that the disputed domain name is identical to its registered trademark PHOTOCIRCLE, which is actively used in connection with its secure photo sharing service. The Complainant asserts that the disputed domain name consists solely of its trademark and the generic top-level domain ".com", rendering it identical to the mark under the Policy.

The Complainant further asserts that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, the disputed domain name has been parked and unused for several years, and the Respondent has made no effort to develop, use, or associate it with any bona fide offering of goods or services.

The Complainant asserts that the disputed domain name was registered and is being used in bad faith. It argues that the Respondent's long-standing non-use of the disputed domain name, combined with its failure to respond to multiple purchase offers, supports a finding of bad faith. The Complainant claims that it has operated under the PHOTOCIRCLE brand since 2012 and that the Respondent's conduct reflects an intent to prevent the Complainant from reflecting its mark in a corresponding domain name.

B. Response

The Respondent asserts that it has not registered or used the disputed domain name in bad faith. It argues that the disputed domain name was registered in June 2001, more than a decade before the Complainant's first claimed use of the PHOTOCIRCLE mark in April 2012. The Respondent asserts that this timeline precludes any finding of bad faith registration.

The Respondent also asserts that passive holding and failure to respond to purchase inquiries, without more, do not constitute bad faith under the Policy. It further asserts that it has rights or legitimate interests in the disputed domain name. It argues that the Complainant has not met its burden of proof and that its claims are conclusory and unsupported by evidence. The Respondent contends that it holds a legitimate interest in the disputed domain name, which is composed of the descriptive terms "photo" and "circle". It also argues that, because the Complainant has not established bad faith, the Panel need not reach the issue of legitimate interests.

C. Complainant's Supplemental Filing

The Complainant submitted an unsolicited Supplemental Filing in which it asserts that the relevant date for assessing bad faith is not the original 2001 creation of the disputed domain name but rather a purported 2021 transfer to the current Respondent. The Complainant asserts that this is a new registration under the Policy.

The Complainant further asserts that it had established common law rights in the PHOTOCIRCLE mark well before the purported 2021 transfer, pointing to evidence of media coverage, user adoption, and high engagement on app platforms dating back to 2012. The Complainant claims that this demonstrates the distinctiveness and goodwill of its mark prior to the Respondent's acquisition.

The Complainant also asserts that the Respondent's continued passive holding of the disputed domain name, with no indication of bona fide use, supports a finding of bad faith.

Finally, the Complainant asserts that it has continued to act in good faith, citing a 2022 attempt to contact the domain's privacy-protected registrant to inquire about potential purchase, which was also ignored.

D. Respondent's Supplemental Response

The Respondent addressed the Complainant's argument in a Supplemental Response. As an initial matter, it argues that the Complainant's supplemental filing is procedurally improper and should not be considered. It argues that the Rules do not permit unsolicited supplemental filings absent exceptional circumstances and cites WIPO precedent declining to accept such submissions.

The Respondent also asserts that there was no change in ownership of the disputed domain name in 2021. It contends that the Complainant has misinterpreted a routine change in server or registrar information as evidence of a transfer. The Respondent maintains that it has continuously owned the disputed domain name since 2001.

The Respondent further asserts that the Complainant's annexes purporting to show ownership history, including WHOIS records and a 2012 email exchange, are either unreliable, internally generated, or do not support the Complainant's assertions. The Respondent specifically denies any connection to the individual identified in the Complainant's submission and reaffirms its position that it has held the disputed domain name continuously and in good faith.

6. Discussion and Findings

In the interest of making a comprehensive evaluation of the situation, the Panel will consider the supplemental filings of the Parties.

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (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.

A. Identical or Confusingly Similar

This first element functions primarily as a standing requirement. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7. 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. *Id.* This element requires the Panel to consider

two issues: first, whether the Complainant has rights in a relevant mark; and second, whether the disputed domain name is identical or confusingly similar to that mark.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#). The Complainant has demonstrated its rights in the PHOTOCIRCLE mark by providing evidence of its trademark registrations. See [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name incorporates the PHOTOCIRCLE mark in its entirety. This makes it identical for purposes of the policy, since it is standard practice when comparing a disputed domain name to a complainant's trademark, to not take the extension into account. See [WIPO Overview 3.0](#) at 1.11.1 ("The applicable Top Level Domain ('TLD') in a domain name (e.g., '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.").

The Panel finds that the Complainant has established this first element under the Policy.

B. Rights and Legitimate Interests

Given the Panel's finding on the third element below, it declines to address this second element under the Policy.

C. Bad Faith Use and Registration

Where a respondent registers a domain name before the complainant's trademark rights accrue, panels will not normally find bad faith on the part of the respondent. See [WIPO Overview 3.0](#), section 3.8.1.

The Complainant asserts that the Respondent acquired the disputed domain name in 2021 and that this acquisition constitutes a new registration occurring after the Complainant's trademark rights had accrued. In support of this, the Complainant has submitted copies of Whois records and a purported 2012 email exchange with a prior registrant. However, the Panel has doubts about the authenticity and reliability of this documentation. In particular, the Panel agrees with the Respondent's observation that at least a portion of the provided Whois information appears to have been internally compiled. The Respondent has credibly challenged both the provenance and the interpretation of these materials. As for historical Whois information submitted, the Complainant does not explain how such information shows that the disputed domain name was transferred to the Respondent in 2021.

Moreover, there is no persuasive evidence that the Respondent targeted the Complainant or its PHOTOCIRCLE mark when registering or continuing to hold the disputed domain name. Even if the Respondent acquired the disputed domain name in or after 2012, the record does not support a finding that the registration was made with any intent to sell it to the Complainant, disrupt its business, or otherwise profit from consumer confusion.

Absent credible evidence of targeting or any clear indicia of abusive intent, the Panel does not view this as a case of cybersquatting. The passive holding of this disputed domain name, which is comprised of two dictionary terms, without more, is insufficient to support a finding of bad faith.

For these reasons, the Panel finds that the Complainant has not carried its burden under the third element of the Policy.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Evan D. Brown/

Evan D. Brown

Sole Panelist

Date: August 26, 2025