

ADMINISTRATIVE PANEL DECISION

N. M. Rothschild & Sons Limited v. Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico
Case No. D2022-1078

1. The Parties

The Complainant is N. M. Rothschild & Sons Limited, United Kingdom, represented by Freshfields, Bruckhaus, Deringer, United Kingdom.

The Respondent is Domains By Proxy, LLC, United States of America / Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <rotschildandco.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 29, 2022. On March 30, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 31, 2022, 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 April 1, 2022 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 April 4, 2022.

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 April 5, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 25, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 28, 2022.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on May 3, 2022. 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 operates in the field of financial services and is recognized worldwide. The Complainant has been in business for more than two centuries. The official website of the Complainant is <rothschildandco.com>. The Complainant and its group companies own trademark registrations for ROTHSCHILD such as:

- United Kingdom registration No. 1168291 registered on January 21, 1982;
- United Kingdom registration No. 1285832 registered on October 12, 1990.

They also own trademark registrations for ROTHSCHILD & CO such as:

- United Kingdom registration No. 3321370 registered on November 23, 2018;
- European Union registration No. 017924819 registered on October 31, 2018

The disputed domain name was registered on December 7, 2021. Printouts of the webpage to which the disputed domain name directs show the following:

- On March 21, 2022, links to financial services and products;
- On March 7, 2022, antivirus software available for purchase;
- On March 7, 2022, designer clothes available for purchase;
- On March 7, 2022, VPN available for purchase.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to a trademark or service mark in which the Complainant has rights. The disputed domain incorporates the Complainant's trademark ROTHSCHILD omitting the letter "h". It also incorporates the Complainant's trademark ROTHSCHILD & CO omitting the letter "h" and replacing "&" with "and". Both trademarks remain recognizable and panels have found that replacing "&" with "and" does not eliminate confusing similarity. The disputed domain name is also similar to the Complainant's domain name used in connection with its official website.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant did not authorize the Respondent to use its trademarks in the disputed domain name and the Respondent is not affiliated with the Complainant. There is no evidence that the Respondent was commonly known by the disputed domain name. The disputed domain name redirects to a different website at each click-through, including a computer antivirus website, a website offering virtual private network services and a website containing Pay-Per-Click ("PPC") links advertising financial services. This suggests that the Respondent is using the disputed domain name in order to confuse Internet users and attract commercial gain, which is not *bona fide* use nor constitutes a legitimate noncommercial or fair use of the disputed domain name.

The Complainant contends that the disputed domain name is registered and is being used in bad faith in order to divert Internet users for commercial gain by creating the likelihood of confusion with the Complainant's trademarks. The Respondent knew of the Complainant and its business as the Complainant and its trademark are well-known in the financial world. Use of a domain name to resolve to a PPC page is evidence of bad faith. There is also the risk of sending phishing emails to the Complainant's customers or

the risk of using the disputed domain name for other fraudulent activities.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant produced a list of trademark registrations for ROTHSCHILD and ROTHSCHILD & CO. No copies of certificates of trademark registration or other official documents have been produced. However, the Panel has no reason to doubt the accuracy of the information submitted by the Complainant. For completeness, noting the general powers of a panel articulated *inter alia* in paragraphs 10 and 12 of the UDRP Rules, the Panel has undertaken limited factual research, and notes from the public trademark records that the Complainant is indeed the owner of a multitude of trademark registrations. See, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.8. The Panel is satisfied that the Complainant is the owner of the trademarks ROTHSCHILD and ROTHSCHILD & CO.

The disputed domain name is a misspelling of the Complainant's trademark ROTHSCHILD & CO. The letter "h" is missing and "&" is replaced with "and", which does not affect the phonetic similarity and has a very limited effect on the visual similarity. This is a typical case of typosquatting, which is designed to confuse users (*Redbox Automated Retail, LLC d/b/a Redbox v. Milen Radumilo*, WIPO Case No. [D2019-1600](#)). The generic Top-Level-Domain ("gTLD") ".com" can be ignored when assessing confusing similarity as it is viewed as a standard registration requirement.

Consequently, the Panel finds that the disputed domain name is identical or confusingly similar to the trademark of the Complainant and that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make at least a *prima facie* showing that a respondent does not have any rights or legitimate interests in the disputed domain name. Once such showing is made, the burden of production shifts to the respondent. In the instant case, the Complainant asserts that the Respondent is not authorized by the Complainant to use its trademark. Therefore, the Complainant has established a *prima facie* case and the burden of production shifts to the Respondent to show that it has rights or legitimate interests.

According to the printouts produced by the Complainant, the webpage to which the disputed domain name resolves includes links to financial services and products, antivirus software available for purchase, designer clothes available for purchase and VPN available for purchase.

Panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links capitalize on the reputation and good will of the complainant's mark. The website contains links to financial services and products. It is the Panel's view that the Respondent is trying to capitalize on the reputation and good will of the Complainant's mark. In *Legacy Health System v. Nijat Hassanov*, WIPO Case No. [D2008-1708](#), it was found that the Respondent had no rights or legitimate interests as "the sole purpose of the disputed domain name is to resolve to pay-per-click advertising websites and collect click-through revenue from advertising links. Such use demonstrates that the Respondent has used the disputed domain name to derive a commercial benefit. There is no indication on the website that the Respondent has made a *bona fide* use of the disputed domain name".

As for the offering of a variety of goods such as software, designer clothes and VPN, the Panel does not

consider this to represent a *bona fide* offering of goods or services either. This is so partly because the same webpage offers PPC links to products from within the industry of the Complainant. It is clear that the Respondent is aware of the Complainant and its trademark and is attempting to attract Internet users to its website for commercial gain. Such knowledge is confirmed further by the fact that the Complainant's trademark is not a dictionary word and is a well-known trademark. Furthermore, the Complainant has no connection with the products being offered through the webpage of the disputed domain name. Therefore, it is not plausible that the Respondent is using the disputed domain name for the purpose of a *bona fide* offering of goods. This is further confirmed by the fact that the disputed domain name reflects the domain name used by the Complainant for its official website with the omission of the letter "h". Clearly, the Respondent is attempting to create confusion in order to attract Internet users and as such he cannot be found to be making a *bona fide* offering of goods or services.

Lastly, the absence of Response by the Respondent allows the Panel to draw inferences and it is the Panel's view that under the circumstances, the absence of response corroborates that the Respondent lacks rights or legitimate interests in the disputed domain name (*Johnson & Johnson v. Daniel Wistbacka*, WIPO Case No. [D2017-0709](#)).

The Respondent has not provided any evidence to show that it has any rights or legitimate interests in the disputed domain name. Accordingly, the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Typosquatting may be an indication of bad faith (*ESPN, Inc v. XC2*, WIPO Case No. [D2005-0444](#)). In the present case, it indicates that the Respondent was aware of the Complainant's trademark and has changed only one letter and replaced "&" with "and" in order to confuse Internet users and to benefit from typos. Furthermore, the disputed domain name resolves to a PPC page and such use constitutes bad faith. In *Mpire Corporation v. Michael Frey*, WIPO Case No. [D2009-0258](#) the panel found that "While the intention to earn click-through-revenue is not in itself illegitimate, the use of a domain name that is deceptively similar to a trademark to obtain click-through-revenue is found to be bad faith use."

Such conduct of using a domain name, to attract Internet users for commercial gain, would fall squarely within the meaning of paragraph 4(b)(iv) of the Policy. Given the above, the Panel believes that the Respondent has registered the disputed domain name in order to trade off the reputation of the Complainant's trademark. Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) 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 <rotschildandco.com> be transferred to the Complainant.

/Nayiri Boghossian/

Nayiri Boghossian

Sole Panelist

Date: May 11, 2022