

ADMINISTRATIVE PANEL DECISION

Hartford Fire Insurance Company v. Privacy Protected by Whols Privacy Protection Service, Inc. / George Washere
Case No. D2022-1785

1. The Parties

The Complainant is Hartford Fire Insurance Company, United States of America (“United States” or “US”), represented by Fross Zelnick Lehrman & Zissu, PC, United States.

The Respondent is Privacy Protected by Whols Privacy Protection Service, Inc., United States / George Washere, Panama.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 18, 2022. On May 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 18, 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 May 20, 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 May 23, 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 May 24, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 13, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 16, 2022.

The Center appointed Christiane Féral-Schuhl as the sole panelist in this matter on June 24, 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 is a well-known company in the United States, which provides insurance and financial services in numerous areas under the trade name “The Hartford”.

The Complainant is the owner of many trademarks in the world, including in particular the following trademarks (the “THE HARTFORD Trademarks”):

- The US trademark THE HARTFORD, No. 1,155,051, registered on May 19, 1981 and regularly renewed for products and services in class 36;
- The US trademark THE HARTFORD, No. 2,487,011, registered on September 11, 2001 and regularly renewed for products and services in call 36;
- the US semi-figurative trademark THE HARTFORD, No. 2,105,608, registered on October 14, 1997 for products and services in call 36.

The Complainant has also registered several domain names containing the THE HARTFORD Trademarks such as <thehartford.com> and the sub-domain name <agency.thehartford.com>.

The Disputed Domain name <agencythehartford.com> was registered by the Respondent on June 8, 2020 and, at the time of the complaint reverts to one of the Complainant’s website. At the time of the decision, reverts to webpage containing many aggressive pop-up ads followed by the displaying of a security alert message. In any case, the Disputed Domain Name was configured to MX servers to generate email addresses.

5. Parties’ Contentions

A. Complainant

First, the Complainant states that it owns strong rights in the THE HARTFORD Trademarks. The Complainant indicates that it has used the THE HARTFORD Trademarks in an extensive manner. The Complainant specifies that the Disputed Domain Name is confusingly similar to the HARTFORD Trademarks given that it incorporates the THE HARTFORD Trademarks in their entirety. Moreover, for the Complainant, the mere addition of the descriptive term “agency” does not prevent a finding of confusing similarity.

Then, the Complainant states that the Respondent has no legitimate interest in the Disputed Domain Name. The Complainant explains that its adoption and extensive use of the THE HARTFORD Trademarks predate the Respondent’s registration of the Disputed Domain Name. The Complainant states that the Respondent was aware of its use and prior registration of the THE HARTFORD Trademarks. Furthermore, the Complainant stands that it does not have any relationship with the Respondent and that it has never given him any license, permission, or other right to use the Disputed Domain Name and the THE HARTFORD Trademarks. Then, the Complainant indicates that there is no evidence that the Respondent is known by the Disputed Domain Name. The Complainant also highlights the fact that the Disputed Domain Name redirects to one of the Complainant’s websites without its authorization.

Finally, the Complainant states the Disputed Domain Name was registered and is being used in bad faith. The Complainant indicates that the Respondent has no connection with the Complainant, and it was never

authorized to register the Disputed Domain Name. Then the Complainant specifies that given its reputation and the fact that it is renowned, Internet users will associate the Dispute Domain Name with the Complainant. Moreover, the Complainant explains the Respondent has given the registrar fake contact details to register the Disputed Domain Name and that MX servers were configured with this Disputed Domain Name. Therefore, there is a risk that the Disputed Domain Name may be used to generate emails as part of phishing scam. Finally, the Respondent has never used the Disputed Domain Name other than in connection with the redirection to the Complainant's website. For the Complainant, such failure to make an active use of a domain name can constitute a proof of bad faith registration and use of a domain name.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that the Complainant shall prove the following three elements:

- (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

According to the Policy, paragraph 4(a)(i), the Complainant shall prove that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

First of all, the Panel finds that the Complainant has provided evidence that it has rights in the THE HARTFORD Trademarks.

Then, the Panel wishes to remind that the first element of the UDRP serves essentially 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.

This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the domain name. In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of the UDRP (see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Panel finds that the Disputed Domain Name is composed of:

- the THE HARTFORD Trademark in its entirety;
- the descriptive term "agency"; and
- the generic Top-Level Domain ("gTLD") ".com".

According to prior UDRP panel decisions, it is sufficient that the domain name incorporates the entirety of a trademark, in order to consider the domain name as confusingly similar to that mark for purposes of UDRP standing. The mere addition of a word to a mark does not prevent a finding of confusing similarity (see section 1.8 of the [WIPO Overview 3.0](#)).

The Panel considers that, in this case, the addition of the term “agency” to the distinctive trademark “THE HARTFORD” does not prevent a finding of confusing similarity between the latter and the THE HARTFORD Trademarks.

Moreover, the gTLD in a domain name is viewed as a standard registration requirement and as such is disregarded for the purpose of determining whether a domain name is identical or confusingly similar to a trademark.

Therefore, the Panel holds that the Disputed Domain Name <agencythehartford.com> is confusingly similar to the THE HARTFORD Trademarks and that the Complainant has established the first element of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

According to the Policy, paragraph 4(a)(ii), the Complainant shall demonstrate that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

The Policy, paragraph 4(c), outlines circumstances that if found by the Panel to be proved shall demonstrate the Respondent’s rights or legitimate interests in the Disputed Domain Name.

These circumstances are:

- before any notice 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
- 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 mark rights; or
- 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 mark at issue.

According to prior UDRP panel decisions, it is sufficient that a complainant shows *prima facie* that a respondent lacks rights or legitimate interests in a domain name in order to shift the burden of production to the respondent (see *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

Indeed, while the overall burden of proof in a UDRP proceedings is on the complainant, UDRP 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 *prima facie* that a 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](#)).

According to the Panel, the Complainant has shown *prima facie* that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

Indeed, it appears that the Complainant has not given any license or authorization of any other kind to the Respondent to use the THE HARTFORD Trademarks. Moreover, the Panel finds that there is no evidence that the Respondent is commonly known by the Disputed Domain Name or that the Respondent has the intent to use the Disputed Domain Name in connection with a *bona fide* offering of goods or services. On the contrary, at the time of the decision, the Disputed Domain Name reverts to a website containing many pop-up ads while displaying a message alerting on the lack of security of the Disputed Domain Name’s website.

In any case, the Respondent did not reply to the Complainant's contentions.

Moreover, considering the nature of the Disputed Domain Name and the fact that it is very similar to another domain name used by the Complainant (<agency.thehartford.com>), Internet users may think that the Disputed Domain Name is dedicated to the Complainant's specific agencies in the US and thus automatically associating the Complainant with the Disputed Domain Name.

Therefore, according to the Policy, paragraphs 4(a)(ii) and 4(c), the Panel considers that the Respondent does not have rights to or legitimate interests in the Disputed Domain Name <agencythehartford.com>.

C. Registered and Used in Bad Faith

According to the Policy, paragraph 4(a)(iii), the Complainant shall prove that the Disputed Domain Name has been registered and is being used in bad faith.

Thus, paragraph 4(b) provides that any one of the following non-exclusive scenarios constitutes evidence of a respondent's bad faith:

(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

First, the Panel considers that it is established that the Complainant's THE HARTFORD Trademarks were registered and used before the registration of the Disputed Domain Name and the Complainant is well known by its trademarks. Therefore, there is a presumption of bad faith registration of the Disputed Domain Name, given the fact that it wholly reproduces the THE HARTFORD Trademarks.

Moreover, the Panel points out that the Disputed Domain Name revolves to a website containing numerous aggressive pop-up ads followed by a security message. The Complainant has also provided evidence that the Disputed Domain Name was used to configure MX servers and to generate emails addresses that may be used in the future as part of a phishing scam.

In this case, the Panel believes that such use of the Disputed Domain Name proves that the Respondent acts in bad faith, given the particular circumstances listed below:

- the Complainant has provided evidence that the Complainant's THE HARTFORD Trademarks are widely protected in many countries,
- the Respondent has not provided any answer to the Complainant's contentions,
- the Respondent has given false contact details while registering the Disputed Domain Name.

Considering all of the above, it is not possible to conceive of any plausible actual or contemplated good faith registration and use of the Disputed Domain Name by the Respondent.

Therefore, in view of all the circumstances of this case, the Panel holds that the Respondent has registered and is using the disputed domain name in bad faith according to the Policy, paragraph 4(a)(iii) and 4(b).

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 <agencythehartford.com> be transferred to the Complainant.

/Christiane Féral-Schuhl/

Christiane Féral-Schuhl

Sole Panelist

Date: July 1, 2022