

ADMINISTRATIVE PANEL DECISION

Phoenix Contact GmbH & Co. KG v. Domains By Proxy, LLC / 德胜 李
Case No. D2022-2948

1. The Parties

The Complainant is Phoenix Contact GmbH & Co. KG, Germany, represented by Taylor Wessing LLP, Germany.

The Respondent is Domains By Proxy, LLC, United States of America / 德胜 李, Hong Kong, China.

2. The Domain Name and Registrar

The disputed domain name <phoenixcontact.ltd> (the “Domain Name”) 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 August 10, 2022. On August 10, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On August 10, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the 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 11, 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 August 20, 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 August 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 14, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 15, 2022. The Center appointed Jeremy Speres as the sole panelist in this matter on September 21, 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 produces and sells components, systems and solutions in the area of electrical engineering, electronics and automation. The Complainant employs nearly 20,000 people worldwide and its products and services are available in more than 100 countries through a broad network of subsidiaries and distribution partners. The Complainant has traded under its PHOENIX CONTACT mark since 1982 and the mark has been recognised as well-known by prior UDRP panels (*Phoenix Contact GmbH & Co. KG v. Whois Privacy Services Pty Ltd, Domain Hostmaster*, WIPO Case No. [D2012-2014](#)).

The Complainant's mark is registered in numerous jurisdictions. Most relevant for this matter, the Complainant's mark is registered in the Respondent's jurisdiction of Hong Kong, China, under registration No. 2000B00330 for the mark PHOENIX CONTACT in class 9, with registration date January 6, 2000.

The Domain Name was registered on June 22, 2022 by the Respondent, and the Complainant's evidence establishes that it has been used for a page displaying the Complainant's PHOENIX CONTACT logo together with a user authentication page seeking user credentials.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its PHOENIX CONTACT mark, that the Respondent has no rights or legitimate interests in the Domain Name, and the Domain Name was registered and used in bad faith given that it has been used for a website that impersonates the Complainant for purposes of fraud.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Domain Name is plainly identical to the Complainant's registered PHOENIX CONTACT mark. It is trite that the omission of spaces from the mark and the addition of the Top-Level Domain as part of a disputed domain name can be disregarded under the first element. The Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant's un rebutted evidence establishes that its PHOENIX CONTACT mark was registered and well known for many years prior to registration of the Domain Name. The Domain Name is identical to the Complainant's mark and the Complainant has certified that the Domain Name is unauthorised by it.

Generally speaking, UDRP panels have found that domain names identical to a complainant's trade mark carry a high risk of implied affiliation (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 2.5.1).

Use of the Complainant's distinctive logo on the website to which the Domain Name has resolved clearly indicates an intention to impersonate the Complainant. UDRP Panels have categorically held that the use of a domain name for illegal activity (e.g., impersonation as in this case) can never confer rights or legitimate interests on a respondent ([WIPO Overview 3.0](#) at section 2.13). There is no evidence that any of the circumstances set out in paragraph 4(c) of the Policy pertain.

The Complainant has satisfied paragraph 4(a)(ii) of the Policy by virtue of having made out an unrebutted *prima facie* case ([WIPO Overview 3.0](#) at section 2.1).

C. Registered and Used in Bad Faith

The Domain Name has been used to impersonate the Complainant; this much is clear from the use of the Complainant's identical logo on the Domain Name's website (*Migros-Genossenschafts-Bund v. WhoisGuard Protected, WhoisGuard, Inc. / Jasmine Julius*, WIPO Case No. [D2020-0327](#)). The Panel notes that the Domain Name's website was asking Internet users for a mobile number and password in what seemed to be a fraudulent attempt to probably get credentials from the Complainant's Internet users. The Panel has confirmed that the Domain Name has been reported for hosting a fraudulent site on numerous scam reporting websites. It is well accepted that use of a domain name to perpetuate fraud constitutes bad faith use ([WIPO Overview 3.0](#) at section 3.4). Impersonation of the Complainant for this purpose falls squarely within paragraph 4(b)(iv) of the Policy.

In accordance with the [WIPO Overview 3.0](#) at section 3.2.1, it is also reasonable to infer bad faith registration given the identity with the Complainant's mark and its repute, the proximity of the registration date of the Domain Name to the dates of the reports of fraudulent use, and the Respondent's failure to respond to the Complaint where an explanation is certainly called for ([WIPO Overview 3.0](#) at section 4.3).

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 Domain Name, <phoenixcontact.ltd>, be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: October 7, 2022