

ADMINISTRATIVE PANEL DECISION

Cintas Corporation v. casey Davis

Case No. D2022-3148

1. The Parties

Complainant is Cintas Corporation, United States of America, represented by Keating Muething & Klekamp PLL, United States of America.

Respondent is casey Davis, United States of America.¹

2. The Domain Name and Registrar

The disputed domain name <cintas.shop> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 25, 2022. On August 26, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 26, 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 Complainant on August 29, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on September 1, 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 September 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 27, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default September 28, 2022.

¹ The original Complaint identified a privacy service, Privacy Service Provided by Withheld for Privacy ehf, as the Respondent. After the Registrar verified the underlying customer data, the Complaint was amended to list casey Davis (the underlying registrant behind the privacy service), which the Panel understands to be the proper Respondent.

The Center appointed Frederick M. Abbott as the sole panelist in this matter on October 10, 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

Complainant is owner of registrations for the word, and word and design, trademark CINTAS on the Principal Register of the United States Patent and Trademark Office (“USPTO”), including (but not limited to) word and design registration number 0985550, registration dated June 4, 1974, in international class (“IC”) 25, covering shirts, pants, jackets and coveralls; word and design registration number 5124225, registration dated January 17, 2017, in IC 35, covering distributorship services providing uniforms, sanitation-related products and fire-resistant clothing, as further specified; word and design registration number 5124229, dated January 17, 2017, in IC 40, covering, *inter alia*, custom manufacture of uniforms, and; word registration number 5124228, registration dated January 17, 2017, in IC 40 covering, *inter alia*, custom manufacture of uniforms. Complainant has provided evidence of additional registrations of the CINTAS trademark in the United States and other countries.

Complainant designs, manufactures, and implements corporate identity uniform programs, supplies sanitation-related products, and provides first aid, safety, and fire protection products and services for more than 1,000,000 businesses throughout North America. Complainant is a publicly traded company listed on the NASDAQ, and during its fiscal year ending May 31, 2021 generated nearly USD 7.12 billion in revenue. Complainant employs approximately 41,000 employees. Complainant advertises and promotes its business in the United States and other countries under its CINTAS trademark, and has long maintained an online commercial presence at “www.cintas.com”, as well as via other CINTAS-formative domain names. Prior to registration of the disputed domain name by Respondent, Complainant operated a website at <shopcintas.com>, and operated through two sub-domains, *i.e.* <shop.cintas.com> and <shop.mycintas.com>, the latter domain name having been registered by Complainant more than eight years ago.

According to the Registrar’s verification, Respondent is registrant of the disputed domain name. According to a Whois look-up report furnished by the Complainant, the record of registration of the disputed domain name was created on August 15, 2022. There is no indication on the record of this proceeding that any party other than Respondent has been registrant of the disputed domain name since its creation date.

Respondent has used the disputed domain name to direct to a website that copies content from Complainant’s commercial website(s), including prominently display of Complainant’s CINTAS trademark, but including contact data that is not associated with Complainant. Complainant’s commercial website includes a menu tab for “Shop”, which is also included among the tabs on Respondent’s replicating website. The disputed domain name incorporates the term “.shop” and is used by Respondent to direct to its website. There is no evidence on the record of this proceeding regarding Respondent’s activities upon being contacted through its deceptive replicant website.

5. Parties’ Contentions

A. Complainant

Complainant alleges that it owns rights in the trademark CINTAS and that the disputed domain name is confusingly similar to that trademark.

Complainant contends that Respondent lacks rights or legitimate interests in the disputed domain name because: (1) Respondent registered the disputed domain name substantially following Complainant’s acquisition of rights in its trademark, and Respondent will not demonstrate use of the disputed domain name

in connection with a *bona fide* offering of goods or services that predates Complainant's rights; (2) Respondent is not known by the disputed domain name nor has it acquired any trademark rights in CINTAS; (3) Complainant has not licensed or otherwise authorized Respondent to use Complainant's trademark in the disputed domain name; (4) Respondent's use of Complainant's trademark in the disputed domain name that directs Internet users to a deceptive variation of Complainant's own websites does not constitute a legitimate noncommercial or fair use, and (5) the disputed domain name suggests affiliation with Complainant to create consumer confusion, which does not qualify as *bona fide* use, or legitimate noncommercial or fair use.

Complainant argues that Respondent registered and is using the disputed domain name in bad faith because: (1) Respondent is using the disputed domain name for commercial gain to direct Internet users to a falsified version of Complainant's commercial website(s) by creating a likelihood of confusion as to Complainant as source, sponsor, affiliate or endorser of Respondent's website; (2) mere registration by Respondent of Complainant's well-known trademark in the disputed domain name creates a presumption of bad faith; (3) Respondent must have been aware of Complainant's trademark when it registered the disputed domain name; (4) Respondent's use of the disputed domain name to direct Internet users to a falsified version of Complainant's website(s) creates for commercial gain Internet user confusion regarding Complainant as the source, sponsor, affiliate or endorser of Respondent's website, and; (5) Respondent's use of a privacy shield supports an inference of bad faith registration and use of the disputed domain name.

Complainant requests the Panel to direct the Registrar to transfer the disputed domain name to Complainant.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

The registration agreement between Respondent and the Registrar subjects Respondent to dispute settlement under the Policy. The Policy requires that domain name registrants submit to a mandatory administrative proceeding conducted by an approved dispute resolution service provider, one of which is the Center, regarding allegations of abusive domain name registration and use (Policy, paragraph 4(a)).

It is essential to UDRP proceedings that fundamental due process requirements be met. Such requirements include that a respondent have notice of proceedings that may substantially affect its rights. The Policy and the Rules establish procedures intended to ensure that respondents are given adequate notice of proceedings commenced against them and a reasonable opportunity to respond (see, e.g., Rules, paragraph 2(a)).

The Center formally notified the Complaint to Respondent at the email and physical address provided in its record of registration. Courier delivery was successful, and there is no indication of problems with the transmission of email to Respondent. The Center took those steps prescribed by the Policy and the Rules to provide notice to Respondent, and those steps are presumed to satisfy notice requirements.

Paragraph 4(a) of the Policy sets forth three elements that must be established by a complainant to merit a finding that a respondent has engaged in abusive domain name registration and use and to obtain relief. These elements are that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which complainant has rights;
- (ii) 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.

Each of the aforesaid three elements must be proved by a complainant to warrant relief.

A. Identical or Confusingly Similar

Complainant has provided evidence of rights in the trademark CINTAS, including by registration at the USPTO and by use in commerce. Respondent has not challenged Complainant's assertion of rights. The Panel determines that Complainant owns rights in the trademark CINTAS.

The disputed domain name directly and fully incorporates Complainant's CINTAS trademark. This is sufficient to establish identity under the Policy. The addition of the Top-Level Domain (TLD) ".shop" to Complainant's trademark in the disputed domain name does not prevent a finding of confusing similarity.² The Panel determines that the disputed domain name is identical to Complainant's CINTAS trademark.

Complainant has established that it owns rights in the trademark CINTAS, and that the disputed domain name is identical to that trademark.

B. Rights or Legitimate Interests

Complainant's allegations to support Respondent's lack of rights or legitimate interests in the disputed domain name are outlined above, and the Panel finds that Complainant has made a *prima facie* showing that Respondent lacks rights or legitimate interests in the disputed domain name.

Respondent has not replied to the Complaint and has not attempted to rebut Complainant's *prima facie* showing of lack of rights or legitimate interests.

Respondent has used the disputed domain name to direct Internet users to a website that is essentially a replicant or clone of Complainant's website(s), but incorporating contact details that are not associated with Complainant. Respondent has not in any way been authorized by Complainant to undertake such activity. Such use by Respondent of Complainant's trademark in the disputed domain name does not constitute a legitimate noncommercial or fair use because, *inter alia*, Respondent's falsified version of Complainant's website(s) are intentionally designed to give Internet users the impression they are visiting Complainant's website(s). Moreover, this does not constitute a *bona fide* offering of goods or services by Respondent as Respondent's activities are undertaken through false pretenses.

There is no evidence that Respondent has been commonly known by the disputed domain name, or that it has established any trademark rights in CINTAS.

Respondent has not attempted to justify registration and use of the disputed domain name for some legitimate purpose.

The Panel determines that Complainant has established that Respondent lacks rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

In order to prevail under the Policy, Complainant must demonstrate that the disputed domain name "has been registered and is being used in bad faith" (Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy states that "for the purposes of paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith". These include that, "(iv) by using the domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] 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

² See also discussion of the ".shop" TLD in the section addressing the element of bad faith, *infra*.

respondent's] website or location".

Respondent registered and used the disputed domain name that is identical to Complainant's distinctive trademark long after Complainant acquired rights in that trademark, and likewise after Complainant established a substantial online presence under that trademark. Respondent knew or should have known of Complainant's trademark rights when it registered and used the disputed domain name.

Respondent has used the disputed domain name to direct Internet users to a website that is designed to convey the appearance that it is operated by or affiliated with Complainant. Respondent has used the TLD ".shop" alongside Complainant's trademark in the disputed domain name, and Complainant's website(s) specifically use the term "shop" as a significant menu item. Complainant's CINTAS-formative domain names include the term "shop". The principal differentiating feature of Respondent's website is that the contact details are not associated with Complainant. Presumably those contact details are associated with Respondent.

Such activities on the part of Respondent are undertaken for commercial gain to create Internet user confusion regarding Complainant acting as the source, sponsor, affiliate or endorser of Respondent's falsified website.

The Panel determines that Respondent registered and is using the disputed domain name in bad faith within the meaning of paragraph 4(b)(iv) 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, <cintas.shop>, be transferred to Complainant.

/Frederick M. Abbott/

Frederick M. Abbott

Sole Panelist

Date: November 4, 2022