

ADMINISTRATIVE PANEL DECISION

Coller Capital Limited v. bajs qi

Case No. D2023-1572

1. The Parties

The Complainant is Coller Capital Limited, United Kingdom, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is bajs qi, Singapore.

2. The Domain Name and Registrar

The disputed domain name <collercapital.xyz> 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 April 11, 2023. On April 11, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 11, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 April 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 11, 2023.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on May 24, 2023. 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 private equity investment company founded in 1990 by Jeremy Collier. Headquartered in London, it counts with offices in New York and Hong Kong, China.

The Complainant's official website is available at the domain name <collercapital.com>, which was registered on June 9, 1998. According to the Complainant's DNS provider, the website at the domain name <collercapital.com> received over 500 million individual visits in the 12-month period between January 2022 and December 2022 (Annex 4 to the Complaint).

The Complainant is the owner of trademark registrations across various jurisdictions, either in its own name or through its subsidiary, Collier Holdings Limited, amongst which are the following:

- United Kingdom trademark registration No. UK00902718146 for COLLER CAPITAL, filed on May 31, 2002 and registered on December 16, 2003, successively renewed, in class 36;
- United Kingdom trademark registration No. UK00003717808 for COLLER CAPITAL, filed on November 4, 2021 and registered on January 28, 2022, in classes 16, 36 and 41;
- European Union trademark registration No. 002718146 for COLLER CAPITAL, filed on May 31, 2002 and registered on December 16, 2003, successively renewed, in class 36; and
- International trademark registration No. 1655121 for COLLER CAPITAL, filed and registered on February 3, 2022, in classes 16, 36 and 41.

The disputed domain name was registered on February 19, 2023, and presently resolves to an active webpage reproducing the Complainant's trademark, information and address.

5. Parties' Contentions

A. Complainant

The Complainant asserts to be one of the world's leading investors in the private equity's secondary market, being widely acknowledged as an innovator and a stand-out player at the complex end of secondaries, having its COLLER CAPITAL mark become well recognized and respected worldwide in its industry.

The Complainant further asserts to acquire interests in private equity funds, portfolios of private companies and other private equity-related assets, having acquired in 1998 the Shell US Pension Trust portfolio and the NatWest Equity Partners portfolio (from Royal Bank of Scotland) and purchased the Bell Labs corporate venture portfolio from Lucent, amongst many other relevant milestones in the private equity secondary market.

Under the Complainant's view, the disputed domain name incorporates the Complainant's well-known COLLER CAPITAL service and trademark in its entirety, thus creating a likelihood of confusion that is enhanced by the website available at the disputed domain name which poses as the Complainant's official website, reproducing the Complainant's trademark and investments.

Regarding the absence of the Respondent's rights or legitimate interests, the Complainant argues that:

- i) the Complainant holds exclusive rights over the service and trademark COLLER CAPITAL;
- ii) the Respondent is not sponsored or affiliated with the Complainant in any way;
- iii) the Complainant has not given the Respondent permission to use the Complainant's trademarks in any manner, nor has the Complainant licensed, authorized, or permitted the Respondent to register domain names incorporating the Complainant's trademark;

- iv) the Respondent is not commonly known by the disputed domain name and has not acquired any trademark rights in the disputed domain name; and
- v) the Respondent has not provided any evidence of use of, or demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or service before or after any notice of the dispute herein, there being clear evidence that the Respondent registered the disputed domain name to impersonate the Complainant.

As to the registration and use of the disputed domain name in bad faith, the Complainant asserts that the use of the disputed domain name in connection with the website described above, displaying the Complainant's trademark and offering investment services, clearly indicates that the Respondent's purpose in registering and using the disputed domain name was to intentionally attempt to attract Internet users to cause confusion for its own commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of their websites and the goods offered and promoted on said website, according to paragraph 4(b)(iv) of the Policy.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth the following three requirements, which have to be met for this Panel to order the transfer of the disputed domain name to the Complainant:

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

The Complainant must prove in this administrative proceeding that each of the aforementioned three elements is present in order to obtain the transfer of the disputed domain name.

In accordance with paragraph 14(a) of the Rules, if the Respondent does not submit a Response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the Complaint.

A. Identical or Confusingly Similar

The Complainant has established rights over the COLLER CAPITAL trademark.

The disputed domain name reproduces in its entirety the Complainant's COLLER CAPITAL trademark and is therefore confusingly similar under the Policy which, as recognized by past UDRP panels, 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 disputed domain name" (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7).

For the reasons above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a nonexclusive list of circumstances that may indicate the

Respondent's rights or legitimate interests in the disputed domain name. These circumstances are:

- (i) before any notice of the dispute, the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the Respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, in spite of not having acquired trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent, in not responding to the Complaint, has failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in the disputed domain name. This entitles the Panel to draw any inferences from such default, as it considers appropriate, pursuant to paragraph 14(b) of the Rules. Nevertheless, the burden of proof is still on the Complainant to make at least a *prima facie* case against the Respondent under the second UDRP element.

In that sense, and according to the evidence submitted, the Complainant has made a *prime facie* case against the Respondent whom is not sponsored or affiliated with the Complainant in any way; nor has received permission by the Complainant to use the Complainant's trademarks in any manner, not having the Complainant licensed, authorized, or permitted the Respondent to register domain names incorporating the Complainant's trademark.

Also, the lack of evidence as to any trademarks registered by the Respondent corresponding to the disputed domain name, corroborates the indication of an absence of rights or legitimate interests in the disputed domain name.

Moreover, according to the evidence submitted by the Complainant, the use made of the disputed domain name in connection with an active webpage mimicking the Complainant's official webpage and reproducing the Complainant's trademark and investment services and where no disclaimer was provided as to the lack of affiliation between the Respondent's website and the Complainant, clearly does not constitute a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use of the disputed domain name in these circumstances.

Under these circumstances and absent evidence to the contrary, the Panel finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain name.

C. Registered and Used in Bad Faith

The Policy indicates in paragraph 4(b)(iv) that bad faith registration and use can be found in respect of a disputed domain name, where a respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website or other on-line location, by creating a likelihood of confusion with a complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

In this case, both the registration and use of the disputed domain name in bad faith can be found pursuant to Policy, paragraph 4(b)(iv), in view of the impersonation of the Complainant's website at the webpage available at the disputed domain name, which creates a likelihood of confusion with the Complainant's trademark and take unfair advantage of the Complainant's trademark for commercial gain.

Moreover, in these circumstances, bad faith of the Respondent is also supported here by (i) the lack of reply by the Respondent invoking any rights or legitimate interests; and (ii) the indication of false or incomplete

information used by the Respondent for registering the disputed domain name, since the Written Notice was undeliverable to the Respondent by courier service.

For the reasons above, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith pursuant to paragraph 4(b)(iv) of the Policy. The third element of the Policy has therefore been met.

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 <collercapital.xyz> be transferred to the Complainant.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Sole Panelist

Date: June 7, 2023