



ARBITRATION
AND
MEDIATION CENTER

WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

ADMINISTRATIVE PANEL DECISION

Halliburton Energy Services, Inc. v. Michael Perry
Case No. D2023-4423

1. The Parties

The Complainant is Halliburton Energy Services, Inc., United States of America ("United States"), represented by Polsinelli PC Law firm, United States.

The Respondent is Michael Perry, United States.

2. The Domain Name and Registrar

The disputed domain name <halliburton-usa.com> is registered with Wild West Domains, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 25, 2023. On October 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 26, 2023, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 27, 2023, 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 amendment to the Complaint on October 27, 2023.

The Center verified that the Complaint together with the amendment to 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 November 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 22, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 29, 2023.

The Center appointed Dennis A. Foster as the sole panelist in this matter on December 7, 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

Founded in the United States in 1919, the Complainant sells energy-related products and services throughout the world. In conducting its operations, the Complainant relies on registrations for its HALLIBURTON trademark in many jurisdictions around the world, including the United States Patent and Trademark Office ("USPTO") (e.g., Registration No. 2,575,840; registered on June 4, 2002).

The Respondent registered the disputed domain name, <halliburton-usa.com>, on March 9, 2023. The disputed domain name does not link to a functioning website.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

- The Complainant, a United States company, was founded in 1919 and has provided energy related products and service throughout the world since then. With over 40,000 employees operating in approximately 70 countries, the Complainant has conducted its business under the HALLIBURTON trademark for more than 80 years.
- The disputed domain name, <halliburton-usa.com>, is confusingly similar to the Complainant's HALLIBURTON mark. The disputed domain name contains that mark in its entirety and merely adds the acronym for the United States of America, "usa", a hyphen and the generic Top-Level Domain ("gTLD"), ".com". Those minor additions do not prevent a finding of confusing similarity between the disputed domain name and the mark, particularly since the Complainant is headquartered in the United States.
- The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is neither affiliated with the Complainant nor licensed by the Complainant to use its mark for any purpose, including the registration of a domain name. Moreover, as the disputed domain name resolves to an unavailable website, the disputed domain name is neither used in connection with a *bona fide* offering of goods or services, nor with a legitimate noncommercial or fair use. Also, there is no reason to believe that the Respondent has been commonly known as the disputed domain name.
- The Respondent registered and is using the disputed domain name in bad faith. The Respondent was aware of the Complainant and its mark when registering the disputed domain name. Also, the disputed domain name was used in connection with a fraudulent attempt to obtain office supplies by use of an email solicitation that referenced the disputed domain name. Furthermore, the Respondent used a privacy service in registering the disputed domain name to prevent disclosure of true ownership, more evidence of bad faith.

B. Respondent

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

6. Discussion and Findings

Pursuant to Policy paragraphs 4(a)(i) - (iii), the Panel may render a decision for the Complainant and grant a transfer of the disputed domain name, <halliburton-usa.com>, if the Complainant proves that:

- The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- The Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- The disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

It is widely accepted that the first element functions primarily 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. See, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds that the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.2.1; *LO 337 IP Holding, LLC v. John Williams, J Entertainment ATL / John Williams, J Entertainment Productions*, WIPO Case No. [D2019-2339](#) ("The Panel concludes that Complainant has rights in the mark WORLD STAR HIP HOP through registration with the USPTO."); and *The Schneider Group, Inc. v. Jack Mann*, WIPO Case No. [D2010-0448](#) ("The Panel finds that Complainant has established rights in the PROTEK mark under Policy paragraph 4(a)(i) through its registration with the USPTO.").

The Panel finds that the entirety of the Complainant's HALLIBURTON trademark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Complainant's trademark for the purposes of the Policy. See, [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, "usa" and the ".com" gTLD, and a hyphen, may bear on assessment of the second and third elements, the Panel finds that such additions do not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. See, [WIPO Overview 3.0](#), section 1.8; *Compagnie Générale des Etablissements Michelin v. Julie Schultz*, WIPO Case No. [D2022-4187](#) (finding <michelin-usa.com> to be confusingly similar to the MICHELIN trademark); and *Accenture Global Services Limited v. Michi Hofer*, WIPO Case No. [D2021-1912](#) (finding <accenture-usa.com> to be confusingly similar to the ACCENTURE mark).

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult 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 a *prima facie* case that the 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See, [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Although the Respondent has not filed a response containing a written rebuttal, the Panel will examine the record to determine whether there is a reasonable rebuttal to be made against the Complainant's *prima facie* case. See, [WIPO Overview 3.0](#), section 2.1; and *OSRAM GmbH v. Mohammed Rafi/Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org*, WIPO Case No. [D2015-1149](#) ("The Respondent has not submitted a response to the Complaint, in the absence of which the Panel may accept all reasonable inferences and allegations in the Complaint as true.").

The evidence in the record suggests that the disputed domain name is not currently being used to host an active website, and there is no evidence of any specific plans to so use the disputed domain name in connection with a *bona fide* offering of goods or services. Thus, the Panel concludes that the Respondent cannot possibly rely on Policy paragraph 4(c)(i) to rebut the *prima facie* case. Moreover, panels have found that the use of a domain name for illegal activity, such as the attempted email use of the disputed domain name to fraudulently obtain office supplies, as alleged in the Complaint, can never confer rights or legitimate interests on a respondent. See, [WIPO Overview 3.0](#), section 2.13.1; and *TVS Motor Company Limited v. Vistaprint Technologies Limited*, WIPO Case No. [DCO2014-0007](#). Also, the Panel can find no plausible reason to conclude that the Respondent has been commonly known as the disputed domain name, meaning that Policy paragraph 4(c)(ii) also fails to apply. Finally, the Respondent's non-use of the disputed domain name in conjunction with a website compels the Panel to find that Policy paragraph 4(c)(iii) is inapplicable as well.

Based on the available record, the Panel finds the Complainant has proved the second element of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and is being used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. See, [WIPO Overview 3.0](#), section 3.2.1; and *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). See, [WIPO Overview 3.0](#), section 3.3; and *Telstra Corporation Limited v. Nuclear Marshmallows*, *supra*.

Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's trademark, the composition of the disputed domain name, the failure of the Respondent to file a response, and the Respondent's use of a privacy service to conceal his identity, and therefore finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy. Moreover, panels have found that the use of a domain name for illegal activity (as applicable to this case and evidenced in the Complaint: attempting to fraudulently obtain office supplies by use of an email from the disputed domain name) constitutes bad faith. See [WIPO Overview 3.0](#), section 3.4; and *BHP Billiton Innovation Pty Ltd v. Oloyi*, WIPO Case No. [D2017-0284](#).

Therefore, having reviewed the record, the Panel finds that the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel therefore finds that the Complainant has established the third element 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, <halliburton-usa.com>, be transferred to the Complainant.

/Dennis A. Foster/

Dennis A. Foster

Sole Panelist

Date: December 21, 2023