

ADMINISTRATIVE PANEL DECISION

British Healthcare Trades Association v. Frederick Barth, Frederick B Barth LLC, Nadim Anwar, British Healthcare Trades Associati
Case No. D2024-0326

1. The Parties

The Complainant is British Healthcare Trades Association, United Kingdom, represented by Adlex Solicitors, United Kingdom.

The Respondents are Frederick Barth, Frederick B Barth LLC (the “First Respondent”), United States of America (“United States”), and Nadim Anwar, British Healthcare Trades Associati (the “Second Respondent”), United Kingdom.

2. The Domain Names and Registrars

The disputed domain name <bhta.com> is registered with GoDaddy.com, LLC.

The disputed domain names <bhtaengage.com> and <bhta.net> were previously registered with 123-Reg Limited. According to information provided by GoDaddy.com, LLC to the Center on January 29, 2024, the same entity is currently the Registrar for these two disputed domain names.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 25, 2024. On January 25 and January 29, 2024, the Center transmitted by email to the Registrars requests for registrar verification in connection with the disputed domain names. On January 25, 2024, the Registrar GoDaddy.com, LLC transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name <bhta.com>, which differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. On January 29, 2024, the Registrar GoDaddy.com, LLC transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names 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 January 29, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants, or alternatively, demonstrate that the underlying registrants are in fact the same entity.

The Complainant filed an amended Complaint on January 31, 2024.

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 Respondents of the Complaint, and the proceedings commenced on February 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 22, 2024. The Center received an informal email communication from a third party on February 13, 2024. On February 14, 2024, the Center requested the third party to identify itself and to clarify its relationship with the Respondents, but the third party did not reply to the Center’s communication. The Respondents did not submit a formal Response. On February 13, 2024, the First Respondent sent an informal email communication to the Center. Accordingly, the Center notified the Parties of the Commencement of Panel Appointment Process on February 26, 2024.

The Center appointed Assen Alexiev as the sole panelist in this matter on March 1, 2024. 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 was incorporated in 1919. It is a not-for-profit trade association operating in the healthcare and assistive technology industry in the United Kingdom. The Complainant represents about 400 healthcare-related companies and interacts and engages with the Government, regulatory bodies and standards setting bodies in the United Kingdom to improve and ensure quality healthcare and assistive technology products and services. The Complainant trades under the name British Healthcare Trades Association and under the acronym “BHTA”.



The Complainant is the owner of the United Kingdom combined trademark (“BHTA BRITISH HEALTHCARE TRADES ASSOCIATION”) with registration No. UK00002591307, registered on August 3, 2012 for goods and services in International Classes 5, 9, 10, 12, 16, 36, 41, and 44 (the “BHTA BRITISH HEALTHCARE TRADES ASSOCIATION trademark”).

The disputed domain name <bhta.com> was initially registered by the Complainant on September 16, 1998, and its current registrant is the First Respondent. This disputed domain name resolves to the official website of the Complainant.

The disputed domain name <bhta.net> was registered by the Complainant on July 24, 2001, and its current registrant is the Second Respondent. This disputed domain name redirects to the Complainant’s official website at the disputed domain name <bhta.com>.

The disputed domain name <bhtaengage.com> was registered by the Complainant on December 3, 2012, and its current registrant is the Second Respondent. This disputed domain name resolves to a parked webpage of 123-Reg Limited.

5. Parties’ Contentions

A. Complainant

The Complainant states that it registered the disputed domain name <bhta.com> in 1998 and the disputed domain names <bhta.net> and <bhtaengage.com> in 2001 and 2012 respectively. The Complainant submits

that it has used the disputed domain names for email communications and for its main website since 1998.

The Complainant explains that in September 2023, its domain names account with 123-Reg Limited was hijacked. The Complainant undertook the account recovery process and regained the control over the disputed domain name <bhta.com>, but could not do so in relation to the other two disputed domain names. In January 2024, the Complainant's new domain names account was also hijacked, and although the Complainant followed the required procedures with 123-Reg Limited and later with GoDaddy.com LLC, it could not regain control over the disputed domain names. The Complainant understood from its communications with the Registrars that an unidentified person who presented him – or herself as being related to the Complainant had taken control over the disputed domain names without the knowledge and consent of the Complainant. In January 2024, the President of the Complainant was contacted by telephone by purportedly on behalf of an international payments company saying that it had received communications from his email address at the disputed domain name <bhta.net> relating to the setting up of an account for the Complainant, and that those communications included his passport details. According to the Complainant, this shows that someone has used the disputed domain name <bhta.net> as an email address in order to impersonate the Complainant and its President for fraudulent purposes, as the Complainant has never used the disputed domain name <bhta.net> for setting up of email accounts and its President had never contacted this company.

The Complainant states that at the time of the filing of the Complaint, its website and email accounts continue to function via the disputed domain name <bhta.com>, but the Complainant is concerned that their operation may be interrupted at any time as the disputed domain name <bhta.com> remains outside its control, and there are other risks posed by its loss of the disputed domain names, as exemplified by the attempted fraudulent use of the disputed domain name <bhta.net>.

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

The Complainant states that the disputed domain names are confusingly similar to its BHTA BRITISH HEALTHCARE TRADES ASSOCIATION trademark, because they all reproduce the distinctive “BHTA” element of this trademark, and the disputed domain name <bhtaengage.com> differs only by the addition of the dictionary word “engage”.

According to the Complainant, the Respondents have no rights or legitimate interests in respect of the disputed domain names, because the Complainant has no association with them and has never authorized them to acquire the disputed domain names or to use its trademark. According to the Complainant, other than for the attempted fraud in the case of the disputed domain name <bhta.net>, there is no evidence that the Respondents have ever actively used the disputed domain names. The Complainant adds that there is no evidence that the Respondents have been commonly known by the disputed domain names, and an illegitimate act such as their theft may not generate rights or legitimate interests in them.

The Complainant contends that the disputed domain names were registered and are being used in bad faith. According to it, the theft of the disputed domain names constitutes registration and use of the disputed domain names in bad faith. The Complainant notes that the disputed domain name <bhta.net> has been actively used for an attempted fraud, and adds that the Respondents' conduct otherwise amounts to “passive holding” in bad faith of the disputed domain names, given that the disputed domain names were stolen from the Complainant, that its trademark is distinctive, that the Respondents have failed to submit a response or to provide any evidence of actual or contemplated good-faith use of the disputed domain names, and that there is no plausible good faith use to which the disputed domain names may be put by the Respondents.

B. Respondents

The Respondents did not submit a formal Response to the Complainant's contentions.

An unidentified person contacted the Center on February 13, 2024 from an email address at the disputed

domain name <bhta.net> with the following message:

“Why is the domain bhta.com suspended? Remove restrictions from the domain. What is going on? Your company started it. Let your company finish this.”

With its only email correspondence to the Center of February 13, 2024, which was also addressed to the unidentified person above, the Second Respondent stated:

“What’s happening? Why is the domain limited? I contacted Andrew to let you know about this issue. I also spoke with GoDaddy support staff. They said that I would write to this email domain.disputes@wipo.int so that the dispute would be closed and restrictions on the domain would be lifted.”

6. Discussion and Findings

6.1. Procedural issue – Consolidation of multiple Respondents

The amended Complaint was filed in relation to two nominally different domain name registrants. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules, and submits that the disputed domain names are in common control, because they were hijacked at around the same time in September 2023 and were transferred into the same proxy service at around the same time without the Complainant’s authorization.

The registrants of the disputed domain names did not comment on the Complainant’s consolidation request and did not deny its statements on this issue.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder. In addressing the Complainant’s request, the Panel will consider whether the disputed domain names or corresponding websites are subject to common control, and whether the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.11.2.

As regards common control, the Panel notes that the disputed domain name <bhta.net> (nominally registered to the Second Respondent) redirects to the website at the disputed domain name <bhta.com> (nominally registered to the First Respondent). In its correspondence to the Center, an unidentified person using an email address at the disputed domain name <bhta.net> raised his/her concerns about the suspension of the disputed domain name <bhta.com>, and then the First Respondent in its only communication to the Center addressed it to the same unidentified person as well. These details show that there is a link between the registrants of the disputed domain names and they appear to be acting in concert or to be under common control.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party, and in any case neither of the Parties has alleged otherwise.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants in a single proceeding.

6.2. Substantive issues

A. Identical or Confusingly Similar

It is well 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. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of the BHTA BRITISH HEALTHCARE TRADES ASSOCIATION trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the BHTA BRITISH HEALTHCARE TRADES ASSOCIATION trademark is recognizable within the disputed domain names <bhta.com>, <bhta.net>, and <bhtaengage.com>, because its distinctive element "BHTA" is incorporated in each of them. Accordingly, these two disputed domain names are confusingly similar to this trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, "engage") may bear on assessment of the second and third elements, the Panel finds the addition of such term to the element "bhta" in the disputed domain name <bhtaengage.com> does not prevent a finding of confusing similarity between this disputed domain name and the BHTA BRITISH HEALTHCARE TRADES ASSOCIATION trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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. [WIPO Overview 3.0](#), section 2.1.

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

Panels have held that the use of a domain name for illegal activity (here, claimed unauthorized account access and hacking of the disputed domain names, and attempt to use one of them for fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. The Complainant has shown that the disputed domain names were previously registered by it and that it currently does not have control over them. The Registrar has confirmed that the Respondents are the current registrants of the disputed domain names. The Respondents have not submitted a Response and have not provided any plausible explanation as to how they have acquired the control over the disputed domain names and how they intend to use them. They have not denied the Complainant's allegations that the disputed domain names have been stolen from it through unauthorized access and hacking of its domain name account with the then Registrar 123-Reg LLC. The name of the Second Respondent appears as a truncated version of

the Complainant's name, and its address appears as a mistaken copy of the Complainant's address, and in the circumstances of this case it is more likely than not that such name and address were indicated to impersonate the Complainant. The fact that two of the disputed domain names redirect to the Complainant's official website increases the risk pointed out by the Complainant that the disputed domain names may be used for fraudulent activities through the impersonation of the Complainant, as this creates a false appearance that the disputed domain names are under its control.

Therefore, the Panel finds that the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name 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 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. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity (here, claimed unauthorized account access/hacking and other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy.

As discussed in the section on rights and legitimate interests above, the Respondents have not submitted a Response, have not denied the allegations of the Complainant that they have hacked the Complainant's domain name account and have stolen the disputed domain names and have used one of the disputed domain names for impersonation fraud. They have not provided any evidence that they have legally obtained the control over the disputed domain names or any plausible explanation how they intend to use them. As already discussed in Section 6.1 above, the evidence shows that the Respondents are acting concert or are under common control. The fact that two of the disputed domain names still redirect to the Complainant's official website shows that the Respondents are well aware of the Complainant. In view of the above, the Panel finds that it is more likely than not that the Respondents have indeed engaged in illegal actions in respect of the disputed domain names.

The disputed domain name <bhtaengage.com> is currently not being used. Panels have found that the non-use of a domain name (including a blank or "coming soon" page) 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 this 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). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, the composition of the disputed domain names, the failure of the Respondents to submit a Response and to provide any evidence of actual or contemplated good-faith use of the disputed domain names, and finds that in the circumstances of this case the passive holding of the disputed domain name <bhtaengage.com> does not prevent a finding of bad faith under the Policy.

Taking all the above into consideration, the Panel 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 names <bhta.com>, <bhtaengage.com> and <bhta.net> be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: March 15, 2024