

ADMINISTRATIVE PANEL DECISION

Colgate-Palmolive Company v. Michael Del Vecchio
Case No. D2024-0654

1. The Parties

The Complainant is Colgate-Palmolive Company, United States of America ("United States"), represented by Fross Zelnick Lehrman & Zissu, PC, United States.

The Respondent is Michael Del Vecchio, United States.

2. The Domain Name and Registrar

The disputed domain name <cpskin-health.com> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 13, 2024. On February 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 13, 2024, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 14, 2024, 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 February 15, 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 Respondent of the Complaint, and the proceedings commenced on February 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 10, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Parties of the Respondent's default on March 11, 2024.

The Center appointed Ingrīda Kariņa-Bērziņa as the sole panelist in this matter on March 18, 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, a Delaware corporation, markets oral care, personal care, home care and pet nutrition products around the world under such brands as Colgate, Palmolive, Ajax and Hill's. It is the proprietor of numerous trademark registrations, including the following:

- United States Trademark Registration No. 5500918 for C P (device mark), registered on June 26, 2018, for goods in classes 3, 5, and 21, for which it claims first use in 1997, 1963 and 1996, respectively;
- United States Trademark Registration No. 5451267 for CP COLGATE-PALMOLIVE COMPANY (device mark), registered on April 24, 2018, for goods in classes 3, 5, and 21, for which it claims first use in 1997, 1963 and 1996, respectively;
- United States Trademark Registration No. 60595 for COLGATE (word mark), registered on February 12, 1907, for goods in classes 3 and 5, claiming a date of first use in 1858.

The Complainant's subsidiary CP Skin Health, Inc. operates its business website at the domain name <cpskinhealth.com>. This business includes such brands as Filorga, EltaMD and PCA SKIN.

The disputed domain name was registered on January 18, 2024. It does not resolve to an active website. The record reflects that e-mail exchange ("MX") servers have been configured for it, and that the Respondent has sent e-mail messages impersonating the Complainant's employees from this address.

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 it traces its origins to 1806. The Complainant's marks are well-known around the world. The disputed domain name contains the Complainant's CP mark and is similar to its domain name at <cpskinhealth.com>, which the Complainant's subsidiary uses for its corporate e-mail addresses. The Respondent has never received permission to use the Complainant's marks. The disputed domain name is not associated with a website. The Respondent's only use of the disputed domain name is to send fraudulent emails in which Respondent attempts to divert payments intended for the Complainant from the Complainant's vendors. The fact that the Respondent impersonated two of the Complainant's employees demonstrates awareness of the Complainant and its marks.

The Complainant requests transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the UDRP requires the Complainant to make out all three of the following:

- (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 Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 1.7.

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

The entirety of the CP mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The Panel’s finding on confusing similarity is affirmed by both the similarity to the Complainant’s own domain name at <cpskinhealth.com> and the use of the disputed domain name for fraudulent email communications, making use of the Complainant’s trademark and impersonating the Complainant’s employees.

Although the addition of other terms (here, “skin health”) may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark 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 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. The Panel notes there is no evidence that the Respondent has used the disputed domain name in connection with a bona fide offering of goods or services, nor that the Respondent has been commonly known by the disputed domain name. There is no evidence that the Respondent has made a legitimate noncommercial or fair use of the disputed domain name.

Rather, the record contains evidence that the Respondent attempted to impersonate two of the Complainant's employees by sending e-mail addresses concerning payment of invoices due to the Complainant. Panels have held that the use of a domain name for illegal activity (here, claimed impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds 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.

In the present case, the Panel notes that the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark. The Complainant's CP mark was registered several years prior to the registration of the disputed domain name, and the disputed domain name reflects that mark in its entirety, together with the terms "skin health," which indicates a direct link to the Complainant's CP Skin Health business, which moreover uses the domain name <cpskinhealth.com> for e-mail addresses of its employees. This domain name differs from the disputed domain name only by the inclusion of a hyphen in the latter. On this record, the Panel finds that the disputed domain name was registered in bad faith. [WIPO Overview 3.0](#), section 3.1.4.

Panels have held that the use of a domain name for illegal activity (here, claimed impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds that the Complainant has provided evidence that the Respondent has used the disputed domain name to generate fraudulent email to the Complainant's vendors in an attempt to obtain payment intended for the Complainant. The Respondent has not attempted to provide a good-faith explanation for such conduct and the Panel does not find it credible that one could exist. On this record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 name <cpskin-health.com> be transferred to the Complainant.

/Ingrīda Kariņa-Bērziņa/

Ingrīda Kariņa-Bērziņa

Sole Panelist

Date: April 1, 2024