

ADMINISTRATIVE PANEL DECISION

Latham & Watkins LLP v. Luiz Barry

Case No. D2024-2296

1. The Parties

The Complainant is Latham & Watkins LLP, United States of America ("United States"), represented internally.

The Respondent is Luiz Barry, United States.

2. The Domain Name and Registrar

The disputed domain name <atham-and-watkins-law.com> (the "Domain Name") is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 5, 2024. On June 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On June 5, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name that 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 June 6, 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 June 8, 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 June 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 1, 2024. The Respondent did not submit a response. Accordingly, the Center notified the Respondent's default on July 5, 2024.

The Center appointed A. Justin Ourso III as the panelist in this matter on July 16, 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 is an American limited liability partnership with a prominent international law practice in fourteen countries, which has operated under the well-known name and mark LATHAM & WATKINS since its founding in 1934.

The Complainant owns a United States registration, No. 2,413,795, for its LATHAM & WATKINS trademark, issued on December 19, 2000, for legal services and related services in Class 42, and a United States registration, No. 4,968,228, for its LATHAM & WATKINS trademark, issued on May 31, 2016, for legal services and related services in Class 42, and other related services in Class 41, and other registrations for other services in other classes.

The Complainant also owns a number of domain names consisting of or incorporating its LATHAM & WATKINS mark, or variations of it, including <latham.com>, <lathamandwatkins.com>, and <lathamwatkins.com>, including variations with obvious typos.

The Respondent registered the Domain Name on January 28, 2023, using a privacy service, without any authorization from the Complainant. Prior to the filing of the Complaint, the Domain Name resolved to a web site that offered criminal defense legal services in the state of Maine. In addition to impersonating the Complainant by branding the Respondent site with the Complainant's LATHAM & WATKINS trademark, the site also used, without consent, the name of a Maine law firm, "The Main Criminal Defense Group," and the individual name of its managing partner and owner, without his consent or knowledge. Shortly after the filing of the Complaint, the site was inaccessible. During the preparation of this Decision, the site remained inaccessible. Attempts to reach it using a Microsoft Edge browser resolved first to a page warning that "Your connection isn't private" and that "Attackers might be trying to steal your information from "www.atham-and-watkins-law.com" (for example, passwords, messages, or credit cards)."

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 Domain Name.

Notably, the Complainant contends that the Respondent has engaged in typosquatting; the web site to which the Domain Name resolves impersonates the Complainant and a law firm in the state of Maine, "The Main Criminal Defense Group"; and the Respondent is targeting the Complainant and intentionally using the site to mislead Internet users for the Respondent's commercial gain.

B. Respondent

The Respondent did not submit a response to the Amended Complaint.

6. Discussion and Findings

A complainant must prove three elements to obtain relief: (i) the domain name is identical or confusingly similar to a trademark in which the complainant has rights; (ii) the respondent has no rights or legitimate interests in the domain name; and (iii) the respondent registered and is using the domain name in bad faith. Policy, paragraph 4(a).

A. Identical or Confusingly Similar

On the first element, the Panel finds that the Complainant's registrations establish its trademark rights. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.2.1. The Domain Name omits the initial letter "L" from the trademark and substitutes the word "and" for the symbol "&," which is not available for use in a domain name. A domain name that consists of an obvious or intentional misspelling of a trademark is considered to be confusingly similar to the subject mark for the purposes of the first element. [WIPO Overview 3.0](#), section 1.9. The Panel finds that the trademark is sufficiently recognizable within the Domain Name for the Domain Name to be confusingly similar to the trademark, and the additional word "law" does not avoid this finding. [WIPO Overview 3.0](#), sections 1.7 and 1.8. Accordingly, the Panel concludes that the Complainant has proven the first element: the Domain Name is confusingly similar to a trademark in which it has rights.

B. Rights or Legitimate Interests

The Respondent has not claimed the existence of any circumstance under the Policy, paragraph 4(c), that demonstrates that a respondent has rights to, or legitimate interests in, a domain name. The Complainant, on the other hand, has shown that it established its trademark rights long before the Respondent registered the Domain Name; it has not authorized the Respondent to use its trademark; and the record contains no evidence that the Respondent is commonly known by the Domain Name. These constitute *prima facie* a showing that the Respondent lacks any rights or legitimate interests in the Domain Name under the Policy, paragraph 4(a)(ii), shifting the burden of production on this second element to the Respondent to come forward with relevant evidence proving rights or legitimate interests in the Domain Name. [WIPO Overview 3.0](#), section 2.1. The Respondent has not submitted any evidence to rebut the *prima facie* showing.

Additionally, the Panel finds that the Respondent masked its identity by using a privacy service; the Respondent provided a false address to the Registrar; the Registrant's name and email address do not resemble the Domain Name, corroborating that the Respondent is not known by the Domain Name; the Respondent failed to provide any evidence of actual or planned good faith use, or even to respond to the Complaint; the Domain Name suggests deliberate typosquatting, and the Respondent's web site confirms intentional typosquatting, because the letter "L," which was omitted from the Domain Name, is not omitted from the Complainant's trademark, which the Respondent used prominently and multiple times on its site; the Respondent's web site impersonated the Complainant and, without consent, used the name of another law firm multiple times, which is not a bona fide commercial use, a noncommercial use, or a fair use of the Domain Name; and no evidence exists of a bona fide commercial, noncommercial, or fair use of the Domain Name. To the contrary, the evidence shows typosquatting, an attempted impersonation, and an intended deceptive use for commercial gain. [WIPO Overview 3.0](#), sections 2.5 and 2.13. Accordingly, the Panel concludes that the Complainant has proven the second element: the Respondent lacks rights or legitimate interests in the Domain Name.

C. Registered and Used in Bad Faith

The Policy provides that the following circumstance is "evidence of the registration and use of a domain name in bad faith: [...] by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site . . . , by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site." Policy, paragraph 4(b)(iv).

The mere registration of a domain name that is confusingly similar to a well-known trademark creates a presumption of bad faith registration, which here is unrebutted by the Respondent. [WIPO Overview 3.0](#), section 3.1.4. The Respondent also used the Complainant's well-known trademark on the Respondent's website. The Panel finds this conclusive evidence that the Respondent must have been aware of the Complainant's trademarks and of its rights in its marks at the time that the Respondent registered the Domain Name, and that the Respondent registered the Domain Name in bad faith. [WIPO Overview 3.0](#), section 3.2.2.

Additionally, typosquatting may support an inference of bad faith registration. Here, the Complainant has alleged that the Domain Name contains an intentional misspelling of the Complainant's trademark. The Respondent has not explained the selection of this unusual Domain Name. Typosquatting, coupled with an absence of rights or legitimate interests, tends to show bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The Complainant has proven that the Respondent's web site, which offers legal services, prominently displays the Complainant's well-known trademark, expressly promoting an affiliation with the Complainant, and uses an address of an office of the Complainant, in effect passing off the site as the Complainant's, or as associated with the Complainant, and that the Respondent engaged in double targeting - targeting the Complainant and another law firm. The Panel finds this impersonation conclusive evidence that the Respondent must have been aware of the Complainant's trademark, and of its rights in its mark, at the time that the Respondent registered the Domain Name, and that the Respondent targeted the Complainant. The Respondent's site also invited users to "contact us online today" by clicking on link buttons, likely for phishing purposes. In short, the Panel finds that the Domain Name and the site are intended to attract, misleadingly and deceptively, customers and potential customers of the Complainant, and potential consumers of legal services, for the Respondent's commercial gain. [WIPO Overview 3.0](#), sections 3.1.4, 3.2.1, and 3.2.2.

Additionally, it is common knowledge that owners of web sites customarily use email addresses containing the domain name of a web site in electronic mail communications. The use of a domain name that is confusingly similar to a trademark in emails that do not originate with the trademark owner presents a risk to the reputation of a trademark and its owner, particularly from the operator of a website that impersonates another party. The Respondent has not rebutted that it intends to use the Domain Name for email that impersonates the Complainant. The risk of deceptive emails is significant and continuing, further supporting a finding of bad faith registration and use. [WIPO Overview 3.0](#), sections 3.1.4 and 3.4.

These findings compel the Panel to conclude that the Respondent intentionally registered the Domain Name in bad faith to take unfair advantage of the Complainant's trademark, and that the Respondent is using the Domain Name in bad faith intentionally to attract Internet users to its site for commercial gain by creating a likelihood of confusion with the Complainant's trademark as to the source of the site or the source of the services offered on the site, in violation of the Policy, paragraph 4(b)(iv). Accordingly, the Panel concludes that the Complainant has proven the third element: the Respondent registered and is using the Domain Name in bad faith.

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 Domain Name <atham-and-watkins-law.com> be transferred to the Complainant.

/A. Justin Ourso III/

A. Justin Ourso III

Panelist

Date: July 30, 2024