

ADMINISTRATIVE PANEL DECISION

CWI, LLC v. Sanlynl Kosol
Case No. D2024-3132

1. The Parties

Complainant is CWI, LLC, United States of America (“United States”), represented by Neal & McDevitt, United States.

Respondent is Sanlynl Kosol, United States.

2. The Domain Name and Registrar

The disputed domain name <campingworldemporiumshop.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 July 30, 2024. On July 31, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 31, 2024, the Registrar transmitted by email to the Center its verification response confirming that 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 Respondent of the Complaint, and the proceedings commenced on August 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 29, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on September 11, 2024.

The Center appointed Frederick M. Abbott as the sole panelist in this matter on September 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

Complainant, directly and indirectly through licensees and affiliated entities, operates a large network of recreational vehicle ("RV"), and RV equipment, accessory and service centers, in the United States under the CAMPING WORLD trademark. Complainant operates a commercial website at "www.campingworld.com". Complainant invests substantial resources in marketing, promoting and advertising its goods and services provided under the CAMPING WORLD trademark.

Complainant is owner of registrations for the word, and word and design, trademark CAMPING WORLD on the Principal Register of the United States Patent and Trademark Office (USPTO), including word trademark registration number 4,536,313, registration dated May 27, 2014, in international classes (ICs) 35 and 37, covering, inter alia, retail store and online services in the field of recreational vehicles and equipment, and camping equipment; word and design trademark registration number 4,536,315, registration dated May 27, 2014, in ICs 35 and 37, covering, inter alia, retail store and online services in the field of recreational vehicles and equipment, and camping equipment, and; word trademark registration number 930,179, registration dated February 29, 1972, in IC 42, covering retail and mail order sale of camping equipment, recreational vehicles and supplies.

According to the Registrar's verification, Respondent is registrant of the disputed domain name. According to Whois Lookup data furnished by Complainant, the record of registration for the disputed domain name was created on November 28, 2023. There is no indication that any party other than Respondent has owned or controlled the disputed domain name since its creation date.

Respondent has used the disputed domain name to direct Internet users to a commercial website prominently displaying Complainant's trademark and a logo substantially similar to that of Complainant designed to give the appearance of a website operated by or affiliated with Complainant. Respondent's website offers for online sale a variety of products typically associated with outdoor recreational activities, including a tent, camping stove, camping chair, tactical headlamp and other outdoor products, along with detailed ordering and shipping information, a shopping cart, and contact information for support. There is no information on the record of this proceeding regarding the extent to which Internet users may have ordered products through Respondent's website and/or if Respondent ships products based on those orders. According to Google Maps search results information provided by Complainant, the address listed on Respondent's website as its business address is a mail station that is also used by Respondent in its record of registration for the disputed domain name. By e-mail dated June 14, 2024, Complainant transmitted a cease and desist and transfer demand to Respondent for which it received no reply.

There is no evidence on the record of this proceeding of any commercial or other relationship between Complainant and Respondent.

5. Parties' Contentions

A. Complainant

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

Notably, Complainant contends that owns rights in CAMPING WORLD trademarks and that the disputed domain name is confusingly similar to those trademarks.

Complainant alleges that Respondent lacks rights or legitimate interests in the disputed domain name because: (1) Complainant has not in any manner authorized Respondent to register or use the disputed domain name or to use its trademarks for any purpose; (2) Respondent will not be able to provide any evidence of legitimate noncommercial or fair use of the disputed domain name; (3) Respondent has not

been commonly known by the disputed domain name, and; (4) Respondent's use of the disputed domain name to suggest a false affiliation with Complainant cannot be considered fair use.

Complainant argues that Respondent registered and is using the disputed domain name in bad faith because: (1) Complainant's trademarks are well known and Respondent must have been aware of its trademark rights when it registered the disputed domain name and created a website using those trademarks or substantially similar identifiers; (2) Respondent has used the disputed domain name for commercial gain to attract business to its website by creating a false association with Complainant; (3) there is no plausible circumstance in which Respondent might use Complainant's trademarks in a legitimate manner.

Complainant requests the Panel to direct the registrar to transfer the disputed domain name to Complainant.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

The Center formally notified the Complaint to Respondent at the email and physical addresses provided in its record of registration. Courier delivery to the address used by Respondent in its record of registration was successful. There is no indication of difficulty in completing e-mail transmission of notice to Respondent. The Center took those steps prescribed by the Policy and the Rules to provide notice to Respondent, and those steps are presumed to satisfy notice requirements.

Paragraph 4(a) of the Policy sets forth three elements that must be established by a complainant to merit a finding that a respondent has engaged in abusive domain name registration and use and to obtain relief. These elements are that:

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

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.

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

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

Although the addition of other terms, here "emporiumshop", 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 Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on Complainant, panels have recognized that proving 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 Respondent. As such, where Complainant, as here, makes out a prima facie case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on Complainant). If Respondent, as here, fails to come forward with such relevant evidence, Complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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.

Respondent’s use of Complainant’s trademarks to falsely suggest to Internet users an affiliation with Complainant for purposes offering to sell or to sell products that are not in fact supplied by Complainant or its affiliates does not constitute fair use of Complainant’s trademarks. Such use by Respondent does not constitute a bona fide offering of goods. Respondent has not otherwise established rights or legitimate interests in the disputed domain name.

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 Respondent was manifestly aware of Complainant and its trademarks when it registered and used the disputed domain name. Complainant’s trademarks were well known at the time the disputed domain name was registered and used. Complainant’s trademarks were readily identified by a routine Internet search. Respondent created a website intended to give the appearance of association with Complainant and its line of products. Respondent deliberately targeted Complainant and its trademarks.

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.

Respondent registered and used Complainant’s trademark in the disputed domain name to direct Internet users to a website intended to convey the false impression that Respondent was affiliated with Complainant. Such use by Respondent intentionally for commercial gain created Internet user confusion as to Complainant acting as source, sponsor, affiliate, or endorser of Respondent’s deceptive website. Respondent has not attempted to provide any justification for its registration and use of the disputed domain name. Respondent’s actions evidence abusive of registration and use of the disputed domain name within the meaning of paragraph 4(b)(iv) of the Policy.

The Panel finds that 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 <campingworldemporiumshop.com> be transferred to Complainant

/Frederick M. Abbott/

Frederick M. Abbott

Sole Panelist

Date: September 30, 2024