

ADMINISTRATIVE PANEL DECISION

Bristol Corners Subdivision Homeowner's Association v. darby oreilly
Case No. D2024-4631

1. The Parties

Complainant is Bristol Corners Subdivision Homeowner's Association, United States of America ("United States" or "US"), represented by Evia Law PLC, United States.

Respondent is darby oreilly, United States.

2. The Domain Name and Registrar

The disputed domain name <bristol-corners.com> (the "Domain Name") is registered with Domain.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 11, 2024. On November 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On the same day, 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 November 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 4, 2024. Respondent sent an email communication to the Center on December 4, 2024.

The Center appointed Christopher S. Gibson as the sole panelist in this matter on December 13, 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 is a homeowners association located in Novi, Michigan, United States. It is responsible for, among other things, maintaining and making improvements to the Bristol Corners subdivision, organizing events, maintaining a Bristol Corners page, and the related financial management such as collecting dues, managing violations, and collecting overdue accounts.

Complainant has a service mark for BRISTOL CORNERS, registered on July 30, 2024, with the State of Michigan, and claims a date of first use in Michigan of January 15, 1999, when the Bristol Corners subdivision was first built. Complainant has provided evidence to demonstrate use of the BRISTOL CORNERS mark in connection with activities conducted by the homeowner's association, and recognition of the BRISTOL CORNERS mark by third parties.

The Domain Name was registered December 10, 2023. As of October 2023, the Domain Name resolved to a website titled "Bristol Corners," with information containing allegations of mismanagement and corruption by Complainant concerning its oversight of the Bristol Corners Subdivision.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy. Notably, Complainant contends that because of over twenty years of use, the BRISTOL CORNERS service mark has become a distinctive identifier that is associated with Complainant at least in the relevant geographic vicinity, namely Novi, Michigan and surrounding cities. Moreover, Complainant claims the Domain Name is nearly identical to the service mark BRISTOL CORNERS and consists solely of the elements in the service mark BRISTOL CORNERS, except for the addition of a hyphen between the words BRISTOL and CORNERS.

Complainant claims Respondent has no rights or legitimate interests in respect of the Domain Name and is not currently a member of Complainant's board of directors and does not otherwise represent Complainant or any of its residents. Complainant contends there is no legitimate reason for Respondent to use the Domain Name. The content Respondent publishes on the site linked to the Domain Name is allegedly false and defamatory and stems from a dispute between Respondent, on the one hand, and Complainant and residents of the Bristol Corners subdivision, on the other hand. Complainant provided a screenshot of the website linked to the Domain Name, which provides an example of an allegedly false and defamatory statement where Respondent asserted Complainant's board "[e]lected themselves in a fraudulent election."

Complainant argues Respondent registered the Domain Name in December 2023, over twenty years after Complainant first started using the BRISTOL CORNERS mark, to defame Complainant, harm its reputation, and tarnish its service mark. Complainant claims Respondent's use of the Domain Name does not have a legitimate noncommercial or fair use. Instead, the use infringes on the trademark rights of Complainant and defames Complainant.

Finally, Complainant contends the Domain Name was registered and continues to be used in bad faith. It was registered not for any legitimate purpose, but rather to defame Complainant, tarnish its service mark, and harm its reputation. Moreover, the selection of the Domain Name as identical to the service mark BRISTOL CORNERS with the addition of a hyphen, was to confuse visitors to the website into believing that the site is endorsed by or affiliated with Complainant. Likewise, the styling of the site is intended to confuse visitors into believing that it is endorsed by or affiliated with Complainant. At first glance the website appears to be a legitimate site of Complainant's with pages for, for instance, "Activities" and "BC News." However, the content of the site is false and defamatory and does not provide any legitimate information regarding Bristol Corners Subdivision.

Accordingly, Complainant requests the Domain Name be cancelled.

B. Respondent

Respondent did not reply to Complainant's contentions. However, on December 4, 2024, Respondent sent an email to the Center indicating the Domain Name will expire on December 10, 2024, and will be replaced by a new domain name to be announced. The Panel has no further notice concerning whether or not this has happened.

6. Discussion and Findings

To succeed on its Complaint, Complainant must demonstrate that the three elements set forth in paragraph 4(a) of the Policy have been satisfied. These elements are that:

- (i) the Domain Name registered by Respondent 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 Domain Name; and
- (iii) Respondent has registered and is using the Domain Name in bad faith.

A. Identical or Confusingly Similar

It is well accepted that the first element of the Policy functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between Complainant's trademark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

While unexamined registered trademarks such as US state registrations (as opposed to US federal registrations) are not accorded substantial deference under the Policy, the Panel determines Complainant has provided sufficient evidence to demonstrate its BRISTOL CORNERS mark, which has been used for over 20 years, has become a distinctive identifier which consumers, residents, and third parties associate with Complainant's and its services. The Panel finds Complainant has established unregistered service mark rights for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3. Moreover, the entirety of the BRISTOL CORNERS mark is reproduced within the Domain Name, with the only difference being a hyphen inserted between the two words. Accordingly, the Domain Name is nearly identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Accordingly, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Regarding the second element of the Policy, section 2.1 of the [WIPO Overview 3.0](#), states, "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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element".

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Domain Name, especially where the Domain Name is identical to Complainant's mark except for a hyphen placed between the terms "BRISTOL" and "CORNERS", and Respondent has provided no justification for choosing the Domain Name. See e.g., [WIPO Overview 3.0](#), section 2.6.2 ("Panels find that even a general right to legitimate criticism does not necessarily extend to registering or using a domain name identical to a trademark (i.e., <trademark.tld> (including typos)); even where such a domain name is used in relation to genuine noncommercial free speech, panels tend to find that this creates an impermissible risk of user confusion through impersonation.") 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 Domain Name such as those enumerated in the Policy or otherwise.

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

C. Registered and Used in Bad Faith

The third element of paragraph 4(a) of the Policy requires that Complainant demonstrate that Respondent registered and is using the Domain Name in bad faith. [WIPO Overview 3.0](#), section 3.1, states, "bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark".

Here, it is evident that Respondent was aware of Complainant and its BRISTOL CORNERS service mark, and targeted that mark, when registering the Domain Name. Regarding use, Respondent is using the nearly identical Domain Name, which falsely conveys an association with Complainant, to lead Internet users to his website, where he asserts allegations of mismanagement and corruption by Complainant concerning its oversight of the Bristol Corners subdivision. The inevitable consequence is that there will be confusion, as Internet users visiting the site will be doing so in the expectation of reaching a site of, or authorized by, Complainant. When they reach the site, they will find an informational site that appears authorized by, or at least related to, Complainant – including pages about Complainant's board, contact details for Complainant, and ongoing projects of Complainant – without any prominent disclaimers regarding Respondent's relationship to Complainant. Internet users may at some point realize that they have been mistaken, but in any event the objective of bringing them there to spread Respondent's views will have already been achieved. As discussed in the analysis in *Red Bull GmbH v. Maxwell Arnold*, WIPO Case No. [D2014-1589](#), this amounts to impersonation of the mark owner with a view to expanding coverage of the respondent's views. Respondent is illegitimately identifying himself as Complainant in a confusing manner and attracting visitors to his site by trading off on Complainant's goodwill in its BRISTOL CORNERS mark. Thus, the Panel finds that in this case, by using the Domain Name and where Respondent has failed to provide a response to justify his use, Respondent has intentionally attempted to attract Internet users to his website by creating a likelihood of confusion with Complainant's BRISTOL CORNERS mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website. This amounts to bad faith within the broad ambit of the Policy.

Accordingly, 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 Domain Name <bristol-corners.com> be cancelled.

/Christopher S. Gibson/

Christopher S. Gibson

Sole Panelist

Date: December 27, 2024