

## ADMINISTRATIVE PANEL DECISION

Covercraft Industries, LLC v. BergeronRichard  
Case No. D2024-4746

### 1. The Parties

The Complainant is Covercraft Industries, LLC, United States of America (“United States”), represented by Fredrikson & Byron, P.A., United States.

The Respondent is BergeronRichard, United States.

### 2. The Domain Names and Registrar

The disputed domain names <covercraftauto.shop> and <covercraftpro.shop> are registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 18, 2024. On November 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On November 20, 2024, the Registrar 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 (“John Doe”) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 21, 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 amendment to the Complaint on November 25, 2024.

The Center verified that the Complaint together with the amendment to 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 the Respondent of the Complaint, and the proceedings commenced on November 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Parties of the Respondent’s default on December 18, 2024.

The Center appointed Ingrīda Kariņa-Bērziņa as the sole panelist in this matter on January 3, 2025. 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 manufactures and markets various types of coverings for motor vehicles, boats, and outdoor furniture. It is the proprietor of several trademark registrations, including the following:

- United States Trademark Registration No. 1478586 for COVERCRAFT (word mark), registered on March 1, 1988, for goods in class 12, claiming a date of first use in 1966;
- United States Trademark Registration No. 2130470 for COVERCRAFT (word mark), registered on January 20, 1998, for goods in classes 12 and 18, claiming a date of first use in 1996;
- United States Trademark Registration No. 1478585 for COVERCRAFT (device mark), registered on March 1, 1988, for goods in class 12, claiming a date of first use in 1981.

The Complainant operates its primary business website at the domain name <covercraft.com>.

The disputed domain name <covercraftpro.shop> was registered on August 8, 2024. The disputed domain name <covercraftauto.shop> was registered on August 9, 2024. At the time of the Complaint and of this Decision, each resolved to a separate e-commerce site offering “Covercraft” branded automobile covers for sale.

#### **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 names.

Notably, the Complainant contends that, founded in 1965, it is a leading branded manufacturer of automotive, marine and recreational vehicle protection products, as well as a market leader in outdoor protection products for home and garden. The disputed domain names contain the Complainant's COVERCRAFT mark in its entirety. They were registered over 19 years after the Complainant registered its website in 1995 and more than 50 years after the Complainant began using its COVERCRAFT marks. There is no relationship between the Complainant and the Respondent. The Complainant believes that the Respondent chose the disputed domain names because of the reputation of the Complainant. The Respondent is using the disputed domain names to attract visitors to its website or location for commercial gain.

##### **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 names are 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 names; and

(iii) the Respondent has registered and is using the disputed domain names 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 names. 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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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

Although the addition of other terms (here, “pro” and “auto”) 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 names 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 names. 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 names such as those enumerated in the Policy or otherwise.

There is no evidence that the Respondent is commonly known by the disputed domain names, nor that there are any circumstances or activities that would establish the Respondent's rights therein. The disputed domain names consist of the Complainant's COVERCRAFT mark (and as such is similar to the Complainant's own domain name <covercraft.com>), adding “auto,” and “pro” referring to the Complainant's business. The Panel finds that such composition indicates targeting of the Complainant.

Panels have held that the use of a domain name for illegitimate 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 has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark. The Complainant's rights in its COVERCRAFT mark predate by at least 19 years the registration of the disputed domain names. The disputed domain names contain the Complainant's COVERCRAFT trademark and, together with the use to which the disputed domain names have been put, clearly implies a link with the Complainant's business.

Panels have held that the use of a domain name for illegitimate activity (here, claimed impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. The disputed domain names resolve to websites purporting to offer "Covercraft" branded automobile covers for sale. In light of the finding that the Respondent has no rights in the disputed domain names, having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names 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 names <covercraftauto.shop> and <covercraftpro.shop> be transferred to the Complainant.

/Ingrīda Kariņa-Bērziņa/

**Ingrīda Kariņa-Bērziņa**

Sole Panelist

Date: January 17, 2024