

ADMINISTRATIVE PANEL DECISION

Bay Cities Tin Shop, Inc. dba Bay Cities Metal Products v. Paul Terry
Case No. D2025-1768

1. The Parties

The Complainant is Bay Cities Tin Shop, Inc. dba Bay Cities Metal Products, United States of America, represented by Command IP LLP, United States of America.

The Respondent is Paul Terry, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <baycitiesmetalproducts.com> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 2, 2025. On May 2, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 4, 2025, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 5, 2025, 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 May 8, 2025.

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 May 13, 2025. In accordance with the Rules, paragraph 5, the due date for Response was June 2, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 3, 2025.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on June 13, 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.

Following its initial review of the case file, the Panel issued Administrative Order No. 1 via the Center on June 27, 2025, requesting that the Complainant provide specific evidence to substantiate its alleged common law trademark rights. The Complainant was invited to submit such additional evidence by July 4, 2025, while the Respondent was granted until July 9, 2025, to file any comments in response. The deadline for the Panel's decision was extended to July 16, 2025. The Complainant submitted certain evidence on July 3, 2025. The Respondent did not submit any response.

4. Factual Background

The Complainant is Bay Cities Tin Shop, Inc., a manufacturer of sheet metal products for the building industry operating since 1958 in the United States of America. The Complainant has manufacturing facilities in California and Arizona.

The Complainant is the owner the trademark BAY CITIES METAL PRODUCTS registered in the United States of America Patent and Trademark Office ("USPTO") on October 1, 2024 (reg. no. 7523381). The trademark was filed on December 29, 2023, declaring first use in commerce in January 1960.

The Complainant owns a website located at "www.bcmnet.com".

The Complainant was the previous owner of the disputed domain name. According to the Complaint, a third party subsequently acquired the domain name and is currently hosting an unauthorized copy of the Complainant's former website on it.

The disputed domain name was registered on April 18, 2021. The disputed domain name resolves to a website that mentions the Complainant's trademark and is hosting an unauthorized copy of the Complainant's former website.

In accordance with WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 4.8, panels may undertake limited factual research into matters of public record, such as using the Internet Archive (Archive.org), to assess the credibility of the parties' claims.

The Panel consulted Archive.org and verified that the disputed domain name was owned and used by the Complainant at least since 1998¹. The archived versions at Archive.org also show that the design and content of the website associated with the domain name were substantially identical to those currently available on the disputed domain name.

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.

B. Respondent

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

¹ <https://web.archive.org/web/19981111184543/http://www.baycitiesmetalproducts.com/>

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements with respect to each disputed domain name:

- (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 disputed domain name has been registered and is being used in bad faith.

The burden of proof of each element is borne by the Complainant. The Respondent's default does not by itself mean that the Complainant is deemed to have prevailed. See [WIPO Overview 3.0](#), section 4.3.

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 3.0](#), section 1.7.

In response to Procedural Order No. 1, the Complainant submitted additional evidence to establish common law trademark rights in the term "Bay Cities Metal Products", in line with section 1.3 of the [WIPO Overview 3.0](#), which requires proof that the mark has acquired distinctiveness through consumer association with the Complainant's goods or services.

The submitted evidence includes:

- A 1968 product guide showing use of the name in connection with metal building materials;
- A 1994 United States of America court decision naming the Complainant, evidencing long-standing commercial activity;
- A United States of America patent publication (2008) listing the Complainant as assignee of a metal roofing product;
- Archived versions (2011) of the Complainant's website offering HVAC and metal construction products;
- A 2021 Facebook post and a 2022 LinkedIn profile (with 423 followers), demonstrating recent and ongoing brand use;
- News articles from 2021 and 2022 reflecting brand recognition and business continuity.

The Panel also reviewed Archive.org records, confirming use of the disputed domain name by the Complainant since at least 1998, with consistent website design and trademark use. This supports the claim of longstanding use.

The Panel finds the Complainant has established unregistered trademark or service mark rights for BAY CITIES METAL PRODUCTS for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3.

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

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.

Panels have held that the use of a domain name for illegitimate activity like impersonation of the Complainant, 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 Complainant has been using the trademark since 1960 and the disputed domain name since at least 1998 until April 2021 when it was registered by a third party without its authorization.
- The Complainant has submitted credible and multi-sourced evidence demonstrating that the name “Bay Cities Metal Products” has acquired distinctiveness through long-standing commercial use, including media presence and online publications leading to trademark recognition.
- The deliberate targeting of a longstanding and distinctive name under these circumstances typically supports a finding of bad faith registration and use.
- Furthermore, the Respondent’s imitation of the Complainant’s website supports a finding of targeting and knowledge of the trademark by the Respondent. Such conduct strongly indicates prior knowledge of the Complainant and a clear intention to target its rights.
- The Respondent is on default. However, if the Respondent was not in default, it would be impossible to provide a good faith explanation for the registration of the disputed domain name and the related content referencing the Complainant, including the use of the Complainant’s trademark on the website and the information related to its products, sales and contact information.

The Complainant was the original registrant of the disputed domain name and had maintained continuous control over it for a period of several years (at least since 1998 according to Archive.org), during which the domain name was actively used in connection with its commercial activities.

For reasons currently unclear, the Complainant inadvertently failed to renew the registration or otherwise lost administrative control over the domain name. However, given the longstanding and bona fide use of the domain name in the course of trade, the Complainant maintains that it has superior rights over the domain name, which remains closely associated with its business and brand identity.

Panels have held that the use of a domain name for illegal activity here a claimed impersonation of the Complainant constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the 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 <baycitiesmetalproducts.com> be transferred to the Complainant.

/Pablo A. Palazzi/

Pablo A. Palazzi

Sole Panelist

Date: July 16, 2025