

ADMINISTRATIVE PANEL DECISION

CitiusTech Healthcare Technology Private Limited v. Domain Admin
Case No. DCO2022-0086

1. The Parties

Complainant is CitiusTech Healthcare Technology Private Limited, India, represented by Vutts & Associates LLP, India.

Respondent is Domain Admin, British Virgin Islands, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <citius.tech> (the “Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 10, 2022. On October 10, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 11, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name, which differed from the named Respondent (Not Available) and contact information in the Complaint. The Center sent an email communication to Complainant on October 18, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on October 19, 2022.

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 Respondent of the Complaint, and the proceedings commenced on October 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 10, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on November 22, 2022.

The Center appointed John C. McElwaine as the sole panelist in this matter on January 3, 2023. 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 an Indian private limited company providing technology services and solutions in the healthcare industry. Relevant to this matter, Complainant owns the following Indian trademark registrations:

- CITIUSTECH (and Design), India trademark registration No. 2700671 registered on March 18, 2014, in Class 09; and
- CITIUSTECH (and Design), India trademark registration No. 2690440 registered on March 3, 2014, in Class 09.

Complainant's United States of America ("United States" or "U.S.") subsidiary, CitiusTech, Inc., is the owner of the following United States trademark registrations:

- CITIUSTECH (and Design), U.S. Reg. No. 4628676 registered on October 28, 2014, in Classes 09 and 42;
- CITIUSTECH, U.S. Reg. No. 4628601 registered on October 28, 2014, in Classes 09 and 42.

The Domain Name was registered on October 29, 2020. At the time of filing the Complaint, the Domain Name redirected to several websites, displaying gambling content.

5. Parties' Contentions

A. Complainant

As Background, Complainant alleges that its trademark, CITIUSTECH, was first adopted in 2005, when the company was established under the name Citius IT Solutions Private Limited. Complainant also points out that its United States subsidiary's name is CitiusTech, Inc., which was formed on July 11, 2005.

Complainant contends that it has been using the CITIUSTECH trademark continuously and exclusively since then and that Complainant is a leading provider of healthcare technology services and solutions in India and the United States.

Complainant alleges that from 2005 to 2022 it has generated sales revenue in excess of USD 1.25 Billion. Complainant further asserts that it has spent large sums of money advertising and marketing its name and products. Due to its significant revenues and advertising, Complainant asserts that the CITIUSTECH trademark has acquired immense reputation and goodwill. Complainant further alleges that it has received numerous industry awards and recognition. Complainant also points out that it is the owner <citius.tech.com>, which is its main website and provides information about Complainant. This website, which became active in 2005, prominently features the CITIUSTECH trademark and is accessible to people from all around the world. As set forth above, in addition to these common law trademark rights, Complainant and its United States subsidiary own trademark registration for the CITIUSTECH word mark and logo. Complainant's registered and common law trademark rights in the mark CITIUSTECH are referred to herein as the "CITIUSTECH Mark".

With respect to the first element of the Policy, Complainant asserts that it is presently using the CITIUSTECH Mark in relation to its various services in India and the United States. Complainant also asserts that Respondent was well-aware of Complainant's CITIUSTECH Mark as the Domain Name was registered after

registrations for its CITIUSTECH Mark were granted and years after significant use by Complainant commenced. Complainant further alleges that the Domain Name comprises the Complainant's prior and well-known trademark and trade name in its entirety.

With respect to the second element of the Policy, Complainant asserts that Respondent cannot have any rights or legitimate interests in the Domain Name because a) Respondent is neither known by the Domain Name nor has it been licensed by Complainant to use the Domain Name; b) Respondent's use of the Domain Name is to redirect traffic searching for Complainant; and c) Respondent is not making fair use or noncommercial use of the Domain Name.

With respect to the third element of the Policy, Complainant asserts that Respondent registered and is using the Domain Name, which is identical to Complainant's CITIUSTECH Mark, with the purpose of redirecting traffic to Respondent's own website in an effort to dupe customers into playing casino and lottery-related games which involved payment of money through these websites.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Even though Respondent has defaulted, paragraph 4(a) of the Policy requires that, in order to succeed in this UDRP proceeding, Complainant must still prove its assertions with evidence demonstrating:

- (i) the 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 Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

Because of Respondent's default, the Panel may accept as true the reasonable factual allegations stated within the Complaint and may draw appropriate inferences therefrom. See *St. Tropez Acquisition Co. Limited v. AnonymousSpeech LLC and Global House Inc.*, WIPO Case No. [D2009-1779](#); *Bjorn Kassoe Andersen v. Direction International*, WIPO Case No. [D2007-0605](#); see also paragraph 5(f) of the Rules ("If a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint"). Having considered the Complaint, the Policy, the Rules, the Supplemental Rules, and applicable principles of law, the Panel's findings on each of the above-cited elements are as follows.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires Complainant to show that the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights.

Complainant has provided evidence that it is the owner of trademark registrations for CITIUSTECH and that since 2005 Complainant has used the CITIUSTECH Mark. The Panel finds that Complainant owns valid trademark rights in the CITIUSTECH Mark, and that the Domain Name is identical to this trademark.

Accordingly, the Panel finds that the Domain Name is identical to Complainant's CITIUSTECH Mark in which Complainant has valid trademark rights. Therefore, Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under the Policy paragraph 4(a)(ii), Complainant has the burden of establishing that Respondent has no rights or legitimate interests in the Domain Name. Complainant needs to first make a *prima facie* showing on this element, at which point the burden of production shifts to Respondent to present evidence that it has some rights or legitimate interests in the Domain Name. If Respondent has failed to do so, Complainant is deemed to have satisfied its burden under paragraph 4(a)(ii) of the Policy. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 2.1. See also *Vicar Operating, Inc. v. Domains by Proxy, Inc. / Eklun Bot Systems, Inc.*, WIPO Case No. [D2010-1141](#); *Nicole Kidman v. John Zuccarini, d/b/a Cupcake Party*, WIPO Case No. [D2000-1415](#); *Inter-Continental Hotels Corporation v. Khaled Ali Soussi*, WIPO Case No. [D2000-0252](#).

Here, Complainant asserts that Respondent is not authorized to have registered the Domain Name and set up a website seeking to lure Internet users seeking Complainant to websites linked by Respondent which contain lottery, casino, and gambling content. Although properly notified by the Center, Respondent failed to submit any response on this point. The silence of a respondent may support a finding that it has no rights or legitimate interests in respect of the domain name. See *Alcoholics Anonymous World Services, Inc., v. Lauren Raymond*, WIPO Case No. [D2000-0007](#); *Ronson Plc v. Unimetal Sanayi ve Tic.A.S.*, WIPO Case No. [D2000-0011](#). Additionally, previous UDRP panels have found that when respondents have not availed themselves of the opportunity to respond to complainant, it can be assumed in appropriate circumstances that respondents have no rights or legitimate interests in the disputed domain name. See *AREVA v. St. James Robyn*, WIPO Case No. [D2010-1017](#); *Nordstrom, Inc. and NIHC, Inc. v. Inkyu Kim*, WIPO Case No. [D2003-0269](#).

Under paragraph 4(c) of the Policy, a respondent’s rights or legitimate interests to a domain name may be established by demonstrating any of the following three conditions:

- (i) before any notice to respondent of the dispute, respondent’s use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) respondent (as an individual, business, or other organization) has been commonly known by the domain name, even if respondent has acquired no trademark or service mark rights; or
- (iii) respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel finds that Respondent will not be able to show rights or legitimate interests under any of the three conditions.

As an initial matter, Respondent cannot satisfy paragraph 4(c)(ii) of the Policy. There is no evidence in the record that Respondent is commonly known by the name “CitiusTech”.

Complainant also provided evidence that the Domain Name resolved to several websites containing lottery, gambling, and casino content and which were commercial in nature. With no apparent connection between the term “CitiusTech” and such content, the Panel concludes that on this record, Respondent has not demonstrated rights or legitimate interests in the Domain Name. See *VKR Holding A/S v. 甄晶鑫 (jing xin zhe)*, WIPO Case No. [D2020-0352](#) (Finding that a webpage displaying advertising for gambling and pornography websites not to be a *bona fide* offering of goods or services within the meaning of paragraph 4(c)(i) of the Policy); *Unilabs AB v. Domain Administrator, See PrivacyGuardian.org / Xian Xing Hao*, WIPO Case No. [D2019-2599](#) (Finding no rights or legitimate interests where respondent is using the Domain Name for commercial gambling and pornography site with no apparent connection to the Domain Name); *Hartsfield Area Transportation Management Association, Inc. v. Max Davidovich*, WIPO Case No. [D2006-0743](#) (Finding no legitimate use by Respondent of a domain name confusingly similar to the

complainant's mark that had links to pornography and gambling websites, alien to the business of the complainant, with consequential tarnishing of the complainant's trade name and service mark).

In sum, Complainant has made a *prima facie* showing of Respondent's lack of rights or legitimate interests and Respondent has failed to come forward to rebut that showing. As provided for by paragraph 14 of the Rules, the Panel may draw such inference from Respondent's default as it considers appropriate. For all these reasons, the Panel is entitled to accept that the second element of the Policy is established by Complainant, and Respondent has no rights or legitimate interests in respect of the Domain Name, pursuant to the Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, Complainant must show that Respondent registered and is using the Domain Name in bad faith. A non-exhaustive list of factors constituting bad faith registration and use is set out in paragraph 4(b) of the Policy.

Bad faith registration can be found where a respondent "knew or should have known" of a complainant's trademark rights and nevertheless registered a domain name in which it had no right or legitimate interest. See *Accor v. Kristen Hoerl*, WIPO Case No. [D2007-1722](#). As discussed herein, Respondent registered the Domain Name long after Complainant established distinctive trademark rights in the CITIUSTECH Mark. Respondent then used the Domain Name by linking it to various websites displaying lottery, casino, and gambling content. The Domain Name is not a dictionary word, and nothing on the webpages linked to the Domain Name indicates any meaning or connection to that which the Domain Name might possess. Given the well-known nature of Complainant's CITIUSTECH Mark, and the lack of any connection whatsoever between the term "CitiusTech" and the content of the linked websites, there can be no other reasonable explanation for Respondent to have chosen to register and use the Domain Name other than to intentionally trade off the goodwill and reputation of Complainant's trademark or otherwise create a false association with Complainant. With no response from Respondent, this claim is undisputed.

As detailed above, the Panel finds on the record before it that Respondent's intention in registering the Domain Name was to attract, for commercial gain, Internet users to Respondent's website by creating a likelihood of confusion with the CITIUSTECH Mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location. Thus, the Panel holds that Complainant has met its burden of showing that Respondent registered and is using the Domain Name in bad faith under paragraph 4(a)(iii) 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 <citiustech.co> be transferred to Complainant.

/John C McElwaine/

John C McElwaine

Sole Panelist

Date: January 17, 2023