

ADMINISTRATIVE PANEL DECISION

Coller Capital Limited v. jia guo

Case No. DCO2023-0021

1. The Parties

The Complainant is Coller Capital Limited, United Kingdom, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is jia guo, China.

2. The Domain Name and Registrar

The disputed domain name <coller-capital.co> (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 March 3, 2023. On March 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On March 6, 2023, 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 (“Domains By Proxy, LLC”) and from the Respondent identified by reference to Annex 1 to the Complaint (“Registration Private, Domains By Proxy, LLC”), as well as contact information in the Complaint. The Center sent an email communication to the Complainant on March 15, 2023, 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 amended Complaint on March 16, 2023.

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 the Respondent of the Complaint, and the proceedings commenced on March 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 11, 2023.

The Center appointed Piotr Nowaczyk as the sole panelist in this matter on April 17, 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

The Complainant is a company focused on investing in the private equity secondary market. It was founded in 1990.

The Complainant's subsidiary, Collier Holdings Limited, is the owner of numerous COLLIER and COLLIER CAPITAL trademark registrations, including:

- the United Kingdom Trademark Registration COLLIER No. UK00003254927, registered on December 1, 2017;
- the United Kingdom Trademark Registration COLLIER CAPITAL No. UK00902718146, registered on December 16, 2003;
- the European Union Trade Mark Registration COLLIER CAPITAL (word) No. 002718146, registered on December 16, 2003;
- the International Trademark Registration COLLIER CAPITAL (word) No. 1655121, registered on February 3, 2022.

The Complainant is also the owner of domain names incorporating the COLLIER and COLLIER CAPITAL trademarks, such as <colliercapital.com> and <collier-capital.com>.

The Domain Name was registered on November 14, 2022.

On January 12, 2023 and January 19, 2023, the Complainant sent to the Respondent the cease-and-desist letters. The Respondent has not responded to the Complainant's correspondence.

The Complainant contains evidence that the Domain Name previously resolved to the website offering for sale various cryptocurrencies. Next, the Domain Name resolved to an inactive website. As of the date of this Decision, the Domain Name also resolves to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant requests that the Domain Name be transferred to the Complainant. According to the Complainant, each of three elements specified in paragraph 4(a) of the Policy are satisfied in the present case.

First, the Complainant submits that the Domain Name is identical or confusingly similar to the trademark in which the Complainant has rights.

Second, the Complainant argues that the Respondent has neither rights nor legitimate interests in the Domain Name.

Third, the Complainant submits that the Domain Name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy places a burden on the Complainant to prove the presence of three separate elements, which can be summarized as follows:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

The requested remedy may only be granted if the above criteria are met.

At the outset, the Panel notes that the applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”. See section 4.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

A. Identical or Confusingly Similar

The first element requires that the Complainant must establish is that the Domain Name is identical or confusingly similar to the trademark in which the Complainant has rights.

As indicated above, the Complainant’s subsidiary, Coller Holdings Limited, is the owner of numerous COLLER and COLLER CAPITAL trademark registrations. As discussed in Section 1.4.1 of the [WIPO Overview 3.0](#), a trademark owner’s affiliate such as a subsidiary of a parent or of a holding company, or an exclusive trademark licensee, is considered to have rights in a trademark under the UDRP for purposes of standing to file a complaint. Thus, this Panel acknowledges that the Complainant has rights in the COLLER and COLLER CAPITAL trademarks for purposes of the present proceedings.

The Domain Name incorporates the COLLER CAPITAL trademarks in its entirety. As numerous UDRP panels have held, incorporating a trademark in its entirety is sufficient to establish that a domain name is identical or confusingly similar to a registered trademark (see *PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.) and EMS COMPUTER INDUSTRY (a/k/a EMS)*, WIPO Case No. [D2003-0696](#)).

The Domain Name differs from the COLLER CAPITAL trademark, in which the Complainant has rights, merely by the addition of a hyphen separating the terms “coller” and “capital”. It is well established that use or absence of punctuation marks, such as hyphens, does not alter the fact that a trademark is recognizable within the disputed domain name. See *Six Continents Hotels, Inc. v. Helen Siew*, WIPO Case No. [D2004-0656](#).

The Top-Level Domain (“TLD”) “.co” in the Domain Name is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. See section 1.11.1, [WIPO Overview 3.0](#).

Given the above, the Panel finds that the Domain Name is almost identical to the COLLER CAPITAL trademark in which the Complainant has rights. Thus, the Complainant has proved the requirements under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under the second requirement, the Complainant must prove is that the Respondent has no rights or legitimate interests in the Domain Name.

The respondent may establish a right or legitimate interest in the disputed domain name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

- (i) that it has used or made 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 prior to the dispute; or
- (ii) that it is commonly known by the domain name, even if it has not acquired any trademark rights; or
- (iii) that it 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.

Although given the opportunity, the Respondent has not submitted any evidence indicating that any of the circumstances foreseen in paragraph 4(c) of the Policy are present in this case.

On the contrary, it results from the evidence in the record that the COLLER CAPITAL trademark registrations predate the Respondent's registration of the Domain Name. There is no evidence in the case record that the Complainant has licensed or otherwise permitted the Respondent to use the COLLER CAPITAL trademark or to register the Domain Name incorporating this trademark. There is also no evidence to suggest that the Respondent has been commonly known by the Domain Name.

Moreover, it results from the evidence in the record that the Respondent does not make use of the Domain Name in connection with a *bona fide* offering of goods or services, nor does it make a legitimate, noncommercial or fair use of the Domain Name without intent for commercial gain. On the contrary, the Domain Name previously resolved to the website offering for sale various cryptocurrencies. Next, the Domain Name resolved to inactive website. As of the date of this Decision, the Domain Name also resolves to inactive website. Such use of the Domain Name does not confer rights or legitimate interests on the Respondent.

Furthermore, the composition of the Domain Name, wholly incorporating the COLLER CAPITAL trademark with the additional hyphen, carries a risk of implied affiliation. See section 2.5.1, [WIPO Overview 3.0](#).

Given the above, the Respondent has failed to invoke any circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in respect of the Domain Name. Thus, there is no evidence in the case file that refutes the Complainant's *prima facie* case. The Panel concludes that the Complainant has also proved the requirement under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under the third requirement, the Complainant must prove is that the Domain Name has been registered and is being used in bad faith.

Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. See section 3.1, [WIPO Overview 3.0](#).

Under paragraph 4(b) of the Policy, evidence of bad faith registration and use includes without limitation:

- (i) circumstances indicating the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the owner of a trademark or to a competitor of the trademark owner, for valuable consideration in excess of the documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the domain name were registered in order to prevent the owner of a trademark from reflecting the mark in a corresponding domain name, provided it is a pattern of such conduct; or

- (iii) circumstances indicating that the domain name was registered primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the domain name has intentionally been used in an attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with a trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on a website or location.

As indicated above, the Complainant's rights in the COLLER CAPITAL trademark (and in the Complainant's domain names <coller-capital.com>, and <collercapital.com>) predate the registration of the Domain Name. This Panel finds that the Respondent was or should have been aware of this trademark. Such a finding is supported by the content of the Domain Name incorporating in the entirety of the COLLER CAPITAL trademark, as well as the previous content of the website connected to the Domain Name offering the investments in cryptocurrencies, which may be linked and associated with the Complainant's business. Moreover, it has been proven to the Panel's satisfaction that the COLLER CAPITAL trademark is well-known and unique to the Complainant and its subsidiaries. Thus, the Respondent could not likely reasonably ignore the reputation of services and products under this trademark. In sum, the Respondent in all likelihood registered the Domain Name with the expectation of taking advantage of the reputation of the COLLER CAPITAL trademark.

Moreover, the Domain Name was used in bad faith by the Respondent to attract Internet users to the website offering for sale the cryptocurrencies. The Panel considers that by reproducing the COLLER CAPITAL trademark in the Domain Name and promoting investments in the cryptocurrencies at the website connected to this Domain Name, the Respondent intended to profit from the confusion created with Internet users. In consequence, the Panel finds that the evidence in the record demonstrates that the Respondent uses the Domain Name deliberately in order to take advantage of the Complainant's reputation and to give credibility to its services.

Furthermore, as of the date of this Decision, as well as at the time of submitting the Complainant, the Domain Name has resolved to an inactive website. Considering the overall circumstances of this case, the Panel finds that the Respondent's passive holding of the Domain Name does not prevent a finding of bad faith. As numerous UDRP panels have held, passive holding, under the totality of circumstances of the case, would not prevent a finding of bad faith under the Policy. See section 3.3, [WIPO Overview 3.0](#). Here, given the Respondent's failure to participate in the proceeding, and the implausible good faith use to which the Domain Name may be put, the Panel agrees with the above.

In addition, the Respondent's use of a privacy services that concealed registrant information is a further evidence of bad faith.

Finally, the Respondent failed to respond to the cease-and-desist letters sent by the Complainant. This circumstance constitutes further evidence of the Respondent's bad faith.

For the reasons discussed above, the Panel finds that the Complainant has proved the requirements 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 <coller-capital.co> be transferred to the Complainant.

/Piotr Nowaczyk/

Piotr Nowaczyk

Sole Panelist

Date: April 25, 2023