

ADMINISTRATIVE PANEL DECISION

Citrix Systems, Inc. v. Privacy service provided by Withheld for Privacy ehf /
Brett Hawkins
Case No. D2022-0342

1. The Parties

Complainant is Citrix Systems, Inc., United States of America (“U.S.” or “United States”), represented by Day Pitney LLP, United States.

Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / Brett Hawkins, United States.

2. The Domain Name and Registrar

The disputed domain name <citrix-portal.com> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 31, 2022. On February 1, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 1, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on February 7, 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 February 8, 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 February 10, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 2, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on March 3, 2022.

The Center appointed John C. McElwaine as the sole panelist in this matter on March 16, 2022. 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 worldwide provider of computer software systems and related system services in the nature of networking and server software, desktop virtualization systems, software-as-a-service, cloud computing technologies and mobility solutions.

Complainant is the owner of numerous trademark registrations in United States, and in many other countries, including the following registrations most relevant to this proceeding:

- CITRIX, U.S. Registration No. 5803584 registered on July 16, 2019 in Classes 9, 35, 37, 38, 41, 42 and 45;
- CITRIX, U.S. Registration No. 5645864 registered on January 8, 2019 in Classes 9, 16, 25, 35, 37, 38, 39, 40, 41, 42 and 45;
- CITRIX, U.S. Registration No. 2614647 registered on September 3, 2002 in Classes 37 and 42;
- CITRIX, U.S. Registration No. 3674455 registered on August 25, 2009 in Class 9;
- CITRIX, U.S. Registration No. 2540187 registered on February 19, 2002 in Class 9;
- CITRIX, U.S. Registration No. 1685759 registered on May 5, 1992 in Class 9;
- CITRIX, U.S. Registration No. 2517278 registered on December 11, 2001 in Class 41;
- CITRIX, U.S. Registration No. 2515233 registered on December 4, 2001 in Class 35.

Collectively these trademark registrations are referred to as the CITRIX Marks.

The Domain Name was registered by Respondent on January 13, 2021. At the time of the filing of the Complaint, the Domain Name resolved to a website purporting to be a "Citrix Portal."

5. Parties' Contentions

A. Complainant

As background, Complainant asserts that it is an industry leader and worldwide provider of computer software systems and related system services in the nature of networking and server software, desktop virtualization systems, software-as-a-service, cloud computing technologies and mobility solutions. Complainant further claims that its products and services are used by more than 400,000 organizations and over 100 million people worldwide.

Complainant alleges that it offers its customers the ability to login to computer systems remotely via a "Citrix Gateway" portal and that use of this portal or gateway is only available to third-parties through the use of Citrix software licensed by Complainant. Complainant points out that the Citrix Gateway allows licensed users to input their login and password, which is highly confidential and important privacy-protected information. Complainant also asserts that third-party acquisition of this data can have significant consequences for an organization and its data privacy should a third-party be able to secure unauthorized access. Complainant's customers can choose from several "Gateway" themes, one of which is called "RfWebUI." A screenshot of the "RfWebUI" theme was attached to the Complaint as Annex 4.

Complainant alleges that it first became aware of the existence of the Domain Name on January 22, 2021. At that time, Complainant contends that the Domain Name redirected to a clone of the website "www.apps4rent.com". Complainant further alleges that it reported this to Apps4Rent, which took action to prevent redirection to their official website and that the Domain Name ceased resolving shortly thereafter.

Complainant asserts that on or around January 19, 2022, the Domain Name began resolving to a Citrix Gateway Login, which is identical to Complainant's "RfWebUI" themed login gateway. Complainant alleges that the website displayed at the Domain Name seeks to obtain people's username and password information.

With respect to the first element of the Policy, Complainant alleges that the term "Citrix" is a coined term with no meaning other than to refer to Complainant and Complainant's goods and services. Complainant also alleges to own numerous registrations worldwide for marks containing the term CITRIX, including the CITRIX Marks set forth above. Complainant asserts that Domain Name is confusingly similar to Complainant's CITRIX Marks because it incorporates Complainant's well-known and distinctive trademark in its entirety as the first and most prominent term. Complainant further asserts that the addition of the term "portal" within the Domain Name does not distinguish the Domain from Complainant's CITRIX Marks.

With respect to the second element of the Policy, Complainant asserts that Respondent is not authorized to use the CITRIX Marks in the Domain Name to impersonate Complainant. Complainant also asserts that Respondent is not commonly known by the names "Citrix", or "Citrix Portal", Complainant has no relationship with Respondent whatsoever, and that Respondent does not have license, permission, or authorization from Complainant to use the CITRIX Marks. Complainant alleges that Respondent's registration and use of the Domain Name cannot be considered "fair use" because it falsely suggests affiliation with Complainant. Based upon this, Complainant asserts that Respondent has no rights or legitimate interests in respect of the Domain Name in connection with a *bona fide* offering of goods or services.

With respect to the third element of the Policy, Complainant asserts that Respondent registered the Domain Name and was impersonating Complainant for the purpose of obtaining sensitive personal information from actual or perspective customers and that such actions are bad faith registration and use of the Domain Name. Moreover, Complainant points out that prior panels have held using a disputed domain name in connection with a "clone" website indicates Respondent intentionally created a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website within the meaning of paragraph 4(b)(iv) of the Policy.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Even though Respondent did not reply to the Complaint, paragraph 4 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 the absence of a Response, 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. Anonymous Speech 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, and the Supplemental Rules, 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. Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2. Here, Complainant has proved that it is the owner of multiple trademark registrations for the CITRIX Marks.

It is well-established, and the Panel agrees, that the addition of a descriptive word to a trademark in a domain name does not avoid a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8; *Mastercard International Incorporated v. Dolancer Outsourcing Inc.*, WIPO Case No. [D2012-0619](#); *Air France v. Kitchkulture*, WIPO Case No. [D2002-0158](#); *DHL Operations B.V. and DHL International GmbH v. Diversified Home Loans*, WIPO Case No. [D2010-0097](#). The Domain Name contains Complainant's CITRIX Marks in its entirety, as a dominant element. The addition of the word "-portal" does not prevent a finding of confusing similarity between the Domain Name and the CITRIX Marks.

Accordingly, the Panel finds that the Domain Name is confusingly similar to Complainant's CITRIX Marks 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 only to make a *prima facie* showing on this element, at which point the burden of production shifts to Respondent to present evidence that it has 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 *Vicar Operating, Inc. v. Domains by Proxy, Inc. / Eklin Bot Systems, Inc.*, WIPO Case No. [D2010-1141](#); see also *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](#). Respondent has been properly notified of the Complaint by the Center, however, Respondent failed to submit any response concerning these serious accusations.

Although Complainant has satisfied its burden, Respondent may establish a right or legitimate interest in the Domain Name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

"(i) before any notice to you of the dispute, your 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) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are 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 has failed to show rights or legitimate interests under any of the three conditions.

As an initial matter, there is no evidence that Respondent is commonly known by the Domain Name, as the Whois information lists Respondent as Brett Hawkins. Respondent cannot rely upon paragraph 4(c)(ii) of the Policy.

Also, the Panel finds that Respondent's use is not legitimate use of the Domain Name because Respondent is using the Domain Name to resolve to a website engaged in impersonating Complainant likely to obtain sensitive username and password information. [WIPO Overview 3.0](#), section 2.13.1 ("Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or

illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent.”) In addition, the use of the Domain Name to divert Internet traffic to an infringing webpage is not a *bona fide* offering of goods or services. See *Chicago Mercantile Exchange Inc., CME Group Inc. v. Registration Private, Domains By Proxy, LLC, DomainsByProxy.com / Nikolay Korobeynikov*, WIPO Case No. [D2016-0654](#) (finding no legitimate interest in a website resolving from the disputed domain name, which mirrored, and purported to be, the website of “CME Group” and which provided information relating to the trading of futures and options).

Respondent’s use of the Domain Name is also not noncommercial or fair use under paragraph 4(c)(iii) of the Policy, given that Respondent created a website using a spurious version of Complainant’s CITRIX Marks and copied the look and feel of Complainant’s “RfWebUI” gateway template. Such activity does not amount to an activity that may be considered noncommercial or fair. See, *Sermo, Inc. v. CatalystMD, LLC*, WIPO Case No. [D2008-0647](#).

Accordingly, for the reasons detailed above, Complainant has established a *prima facie* case that Respondent lacks rights or legitimate interests in the Domain Name. Respondent had the opportunity to put forth evidence of its rights or legitimate interests; yet provided no substantive response as to why its conduct amounts to a right or legitimate interest in the Domain Name under the Policy. In the absence of such a response and combined with the factors as detailed above, the Panel finds that Respondent has no rights or legitimate interests in respect of the Domain Name under paragraph 4(a)(ii) of the Policy.

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 rights or legitimate interests. See *Accor v. Kristen Hoerl*, WIPO Case No. [D2007-1722](#). As detailed above, Respondent registered the Domain Name which is confusingly similar to Complainant’s CITRIX Marks. Given the well-known reputation of Complainant and the content displayed on Respondent’s website, there is no explanation for Respondent to have chosen to register 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. In fact, the hosting of a website that uses the CITRIX Marks and is an impersonation of Complainant’s “RfWebUI” gateway template is convincing evidence that Respondent knew of Complainant and Complainant’s trademark rights prior to registration of the Domain Name.

As discussed herein, Respondent registered the Domain Name and used it to host a website that Complainant alleges to contain unauthorized and infringing use of Complainant’s trademarks and its “RfWebUI” gateway template content. This amounts to bad faith use of the Domain Name by Respondent. See *Identigene, Inc. v. Genetest Laboratories*, WIPO Case No. [D2000-1100](#) (finding bad faith where the respondent’s use of the domain name at issue to resolve to a website where similar services are offered to Internet users is likely to confuse the user into believing that the complainant is the source of or is sponsoring the services offered at the site); *MathForum.com, LLC v. Weiguang Huang*, WIPO Case No. [D2000-0743](#) (finding bad faith under paragraph 4(b)(iv) of the Policy where the respondent registered a domain name confusingly similar to the complainant’s mark and the domain name was used to host a commercial website that offered similar services offered by the complainant under its mark). Accordingly, the Panel finds that Respondent intentionally created a likelihood of confusion with Complainant’s CITRIX Marks as to the source, sponsorship, affiliation, or endorsement of its website within the meaning of paragraph 4(b)(iv) of the Policy.

Respondent had the opportunity to put forth evidence of its good faith registration and use of the Domain Name; yet provided no substantive response as to why its conduct is justified and not bad faith under the

Policy. In the absence of such a response and combined with the factors as detailed above, the Panel finds 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, <citrix-portal.com>, be transferred to Complainant.

/John C McElwaine/

John C McElwaine

Sole Panelist

Date: March 30, 2022