

ADMINISTRATIVE PANEL DECISION

Cantor Fitzgerald Securities v. Privacy service provided by Withheld for Privacy ehf / Domain Administrator, See PrivacyGuardian.org / mackil francij, humble jambo, Terry, Yundt and Romaguera Coty Sipes
Case No. D2022-1724

1. The Parties

The Complainant is Cantor Fitzgerald Securities, United States of America (“United States”), represented by Kilpatrick Townsend & Stockton LLP, United States.

The Respondents are Privacy service provided by Withheld for Privacy ehf, Iceland / Domain Administrator, See PrivacyGuardian.org, United States / mackil francij, South Africa / humble jambo, United States / Terry, Yundt and Romaguera, Coty Sipes, Malaysia.

2. The Domain Names and Registrars

The disputed domain names <cantorfitzgeraldbank.com>, and <cantorfitzgerdbank.com> are registered with NameCheap, Inc. (the “First Registrar”). The disputed domain name <intcantorb.com> is registered with NameSilo, LLC (the “Second Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 11, 2022. On May 12, 2022, the Center transmitted by emails to the Registrars requests for registrar verification in connection with the disputed domain names. On May 12, 2022, the Registrars transmitted by email to the Center their verification responses disclosing registrant and contact information for the disputed domain names which differed from the named Respondents and contact information in the Complaint. The Center sent an email communication to the Complainant on May 18, 2022 providing the registrant and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on May 19, 2022. On May 27, 2022, the Center informed the Parties that that there appears to be at least *prima facie* grounds sufficient to warrant accepting the Complaint for the Panel’s final determination of the consolidation request on appointment.

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 Respondents of the Complaint, and the proceedings commenced on June 2, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 22, 2022. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on July 11, 2022.

The Center appointed Assen Alexiev as the sole panelist in this matter on July 21, 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.

On August 2, 2022, the Panel issued Procedural Order No.1, by which it invited the Complainant to submit evidence of use for all three disputed domain names and arguments as to how this evidence supports the Complainant's request for consolidation of the disputed domain names into this one proceeding. The Respondents were also afforded an opportunity to respond to the Complainant's comments; the Respondents did not answer to the Center's Procedural Order No. 1. On August 3, 2022, the Complainant made a submission in response to Procedural Order No.1 with accompanying evidence. The Respondents did not respond to the Complainant's submission. According to the Complainant, the Respondent is using the disputed domain names <cantorfitzgeraldbank.com>, and <cantorfitzgerdbank.com> in a fraudulent email scheme impersonating the Complainant.

On August 25, 2022, and due to exceptional circumstances, the Panel extended the Decision due date to August 29, 2022

4. Factual Background

The Complainant was formed over 75 years ago and is a global provider of financial services, including broker-dealer, domestic and international equities, fixed income and currencies, real estate, and investment banking services. It has over 1,800 employees serving more than 5,000 institutional clients in 35 locations around the world.

The Complainant is the owner of the following trademark registrations for the sign "CANTOR FITZGERALD" (the "CANTOR FITZGERALD trademark"):

- the United States trademark CANTOR FITZGERALD with registration No. 2682691, registered on February 4, 2003, for services in International Class 36, with first use in commerce in 1947;
- the Australian trademark CANTOR FITZGERALD with registration No. 962991, registered on July 8, 2004, for goods and services in International Classes 9, 36, and 42; and
- the European Union Trade Mark CANTOR FITZGERALD with registration No. 003283041, registered on February 1, 2005, for goods and services in International Classes 9, 36, and 38.

The Complainant is also the owner of the United States trademark CANTOR with registration No. 2682690, registered on February 4, 2003, for services in International Class 36, with first use in commerce in 1947 (the "CANTOR trademark").

The Complainant is also the owner of the domain name <cantor.com> registered on December 26, 1993, which resolves to the Complainant's official website.

The disputed domain name <cantorfitzgeraldbank.com> was registered on April 13, 2021. It is currently inactive. According to the evidence submitted by the Complainant, this disputed domain name previously resolved to a parking webpage of the First Registrar, which contained various links to third party websites. The disputed domain name <cantorfitzgerdbank.com> was registered on December 23, 2021. It resolves to a parking webpage of the First Registrar, which contains various links to third party websites. The disputed domain name <intcantorb.com> was registered on June 26, 2021. It resolved to a website that purported to provide company information in Latin.

5. Parties' Contentions

A. Complainant

The Complainant states that it has spent significant amounts for advertising of the CANTOR FITZGERALD and CANTOR trademarks, and that it has used them to name or promote its business divisions and affiliates, including Cantor Fitzgerald Securities, Cantor Fitzgerald Europe, Cantor Fitzgerald (Hong Kong) Capital Markets Limited, and Cantor Fitzgerald Ireland, as well as in relation to its products and services.

The Complainant claims that the Respondents registered the disputed domain names between April and December 2021, long after the CANTOR trademark and the Complainant became widely known in relation to financial services. According to the Complainant, the Respondents have used the disputed domain names as part of a fraudulent scheme in which individuals are contacted and told by a person posing as a representative of the Complainant and using the name "Cantor Fitzgerald Bank," that they are receiving a donation of USD 1.5 million. The contacted individuals are then asked to provide personal information and a copy of their official identification documents so that the funds could be transferred to them. According to the Complainant, as part of the scheme, the targeted individuals receive application forms and other documents regarding the "donation" that feature the CANTOR FITZGERALD trademark and show an address for the Cantor Fitzgerald Bank that is an address for an actual office of the Complainant in Dallas, Texas, as well as email addresses that are based on the disputed domain names. The individuals are also told that in order to receive the funds they need to make a refundable tax payment. The Complainant explains that in furtherance of this scheme, the Respondents have also sent fraudulent tax letters from the Idaho State Tax Commission, and that the targeted individuals never received the purported USD 1.5 million donation.

The Complainant notes that the Respondents have also used the disputed domain names with either bogus websites or with click-through linking portals with offerings that either directly compete with the Complainant or that feature products and services that are unrelated to the Complainant and its CANTOR FITZGERALD trademark.

The Complainant submits that the disputed domain names are confusingly similar to the CANTOR FITZGERALD and CANTOR trademarks, because each of them includes an exact copy or a typo version of these trademarks. The Complainant notes that the addition of the word "bank" in the disputed domain names <cantorfitzgerdbank.com> and <cantorfitzgeraldbank.com> does not distinguish them from the CANTOR FITZGERALD or CANTOR trademarks, which are clearly identifiable and the primary and dominant elements of the disputed domain names. The Complainant adds that the addition of "int" (which likely stands for "international") and the letter "b" (likely to suggest the word "bank") in the disputed domain name <intcantorb.com> does not distinguish it from the CANTOR trademark, which remains clearly visible and the dominant component of it. The Complainant points out that the addition of the word "bank" or abbreviations such as "int" to "cantor fitzgerald" or to "cantor" suggests to Internet users that the disputed domain names are related to the Complainant and to a banking or other related service offered by the Complainant under the CANTOR FITZGERALD or CANTOR trademarks. The Complainant adds that given the long use (over 75 years) and renown of the Complainant's CANTOR trademark, relevant consumers who search the Internet for information concerning financial services related to CANTOR FITZGERALD or CANTOR are likely to encounter the Respondents' disputed domain names and mistakenly believe that they and the associated websites are related to the Complainant and its services, thereby creating a likelihood of confusion.

According to the Complainant, given his longstanding use of the CANTOR FITZGERALD and CANTOR trademarks, and the fact that a simple Internet search for them would have revealed the Complainant's extensive use of these trademarks, the Respondents must have been aware of the CANTOR FITZGERALD and CANTOR trademarks.

The Complainant maintains that the Respondents have no rights or legitimate interests in respect of the disputed domain names, because they do not correspond to the names of the Respondents. The review of the WhoIs information for the disputed domain names shows that it contains bogus information. The

Complainant states that there is no relationship between the Complainant and the Respondents giving rise to any license, permission, or other right by which the Respondents could own or use any domain name incorporating the CANTOR FITZGERALD and CANTOR trademarks, and the Complainant does not sponsor or endorse the Respondents' activities and does not consent to their use of the CANTOR trademark in the disputed domain names.

The Complainant submits that the Respondents are neither using the disputed domain names in connection with a *bona fide* offering of goods or services nor making a legitimate noncommercial or fair use of the disputed domain names. Rather, the Respondents have used the disputed domain names without permission by the Complainant to capitalize on the CANTOR FITZGERALD and CANTOR names and trademarks for commercial gain. The Respondents are using the disputed domain names to impersonate the Complainant as part of a fraudulent scheme to trick unsuspecting individuals into disclosing their personal identifying information and providing copies of their national identification documents and into making fraudulent financial payments to the Respondents.

The Complainant contends that the disputed domain names were registered and are being used in bad faith. According to it, the Respondents have registered and are using the disputed domain names in bad faith for commercial gain and to benefit from the goodwill associated with the Complainant's CANTOR trademark. The Complainant adds that the Respondents' bad faith registration of the disputed domain names is established by the fact that the disputed domain names completely incorporate the Complainant's CANTOR trademark and were registered long after the Complainant's rights in its CANTOR trademark were established and after the Complainant's services became well-known.

The Complainant maintains that the Respondents' bad faith is also exhibited by the fact that the Respondents have registered the disputed domain names to pass themselves off as the Complainant for purposes of a perpetrating a fraudulent scheme for their profit. In the Complainant's view, the Respondents were fully aware of the Complainant's rights in its CANTOR FITZGERALD and CANTOR names and trademarks when they registered the disputed domain names targeting the Complainant.

The Complainant adds that the Respondents' bad faith is further shown by the fact that the Respondents have concealed their identities by using privacy services and false names and contact information, such as nonexistent towns and streets.

B. Respondent

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

6. Discussion and Findings

6.1. Procedural issue – Consolidation of Respondents

The Complainant requests the consolidation of the proceedings in respect of the disputed domain names, maintaining that all of the disputed domain names are owned and controlled by the same party or by the same operating group using various aliases, and have all been used as part of a fraudulent scheme, in which they are used for email addresses purporting to be linked to the Complainant and were mentioned on documents meant to trick unsuspecting individuals into disclosing personal information and to solicit the making of alleged advance tax payments. The Complainant also notes that the disputed domain names <cantorfitzgerdbank.com> and <cantorfitzgeraldbank.com> are both registered through the First Registrar, using the same domain name servers, and that the three disputed domain names use what appear to be bogus names and contact information.

With its submission in response to Procedural Order No.1, the Complainant further states that the disputed domain name <cantorfitzgeraldbank.com> was used for phishing, and regulatory authorities issued warnings about it and about the fraudulent clone CANTOR FITZGERALD BANK. This disputed domain name was

then used for parked webpages with click-through links generated through the First Registrar. Later, the Respondents registered the disputed domain name <cantorfitzgerdbank.com> (also through the First Registrar) and started to use it for the scam discussed in the Complaint and shown by the evidence submitted by the Complainant, where the disputed domain names <cantorfitzgerdbank.com> and <intcantorb.com> are both used for email accounts used for the scam. According to the Complainant, the above supports the conclusion that the three disputed domain names have been used as part of an ongoing scam to defraud consumers and customers of the Complainant, and that the Respondents have used different aliases to register the disputed domain names in an attempt to complicate matters for the Complainant.

The Center has discharged its duties to notify the persons listed as registrants of the disputed domain names. None of the listed registrants of the disputed domain names has submitted a formal Response or objected to the consolidation request of the Complainant.

Paragraph 10(e) of the Rules grants a panel the power to consolidate multiple domain name disputes, and paragraph 3(c) of the Rules provides that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder. As discussed in section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), where a complaint is filed against multiple respondents, UDRP panels look at whether the domain names or corresponding websites are subject to common control, and whether the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario. UDRP panels have considered a range of factors, typically present in some combination, as useful to determining whether such consolidation is appropriate, such as similarities in the content or layout of websites corresponding to the disputed domain names, any naming patterns in the disputed domain names, or other arguments made by the complainant.

The Panel is satisfied that the Complainant has shown good reasons why the consolidation of the Respondents and disputes related to the disputed domain names in a single proceeding is justified and appropriate in the circumstances. The disputed domain names <cantorfitzgerdbank.com> and <intcantorb.com> are both mentioned the piece of evidence submitted by the Complainant, as part of email addresses of the sender of the email message to a third-party individual, informing him or her that “an online account was opened with your name and your funds \$1,500,000.00 USD has been deposited into the account.” The disputed domain name <cantorfitzgeraldbank.com> shows a similar naming pattern to the disputed domain name <cantorfitzgerdbank.com> and has been included in a list of potential phishing domain names. These two disputed domain names have both been registered through the First Registrar and have been used for parking webpages containing similar third-party content. In the absence of any evidence to the contrary and any denial by the Respondents of the statements of the Complainant, these circumstances satisfy the Panel that it is more likely than not that the three disputed domain names are under common control or that their registrants are acting in concert.

None of the Respondents has advanced any reasons why it may not be equitable to allow the consolidation of the disputes. It appears that the consolidation would lead to greater procedural efficiency, and the Panel is not aware of any reasons why the consolidation would not be fair and equitable to all parties.

Therefore, the Panel decides to allow the consolidation of the disputes in relation to all of the disputed domain names in the present proceeding.

6.2. Substantive issues

Paragraph 4(a) of the Policy sets forth the following three requirements, which have to be met by the Complainant to obtain the transfer of the disputed domain names:

(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 disputed domain names have been registered and are being used in bad faith.

By the Rules, paragraph 5(c)(i), it is expected of a respondent to: “[r]espond specifically to the statements and allegations contained in the complaint and include any and all bases for the Respondent (domain name holder) to retain registration and use of the disputed domain name [...]”

The Respondents have however submitted no Response and have not disputed the Complainant's contentions and evidence in this proceeding.

A. Identical or Confusingly Similar

The Complainant has submitted sufficient evidence to demonstrate its registered rights in the CANTOR and CANTOR FITZGERALD trademarks.

The Panel notes that a common practice has emerged under the Policy to disregard in most circumstances the generic Top-Level Domain (“gTLD”) section of domain names for the purposes of the comparison under the Policy, paragraph 4(a)(i). See section 1.11.1 of [WIPO Overview 3.0](#). The Panel sees no reason not to follow the same approach here, so it will disregard the “.com” gTLD of the disputed domain names.

The relevant part of the disputed domain name <cantorfitzgeraldbank.com> incorporates the CANTOR and CANTOR FITZGERALD trademarks in their entirety, followed by the word “bank”. This additional element in the disputed domain name does not affect the confusing similarity between the CANTOR and CANTOR FITZGERALD trademarks and this disputed domain name. It has consistently been held by UDRP panels that the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity between a domain name and a trademark where the trademark is clearly recognizable in the disputed domain name. See section 1.8 of the [WIPO Overview 3.0](#).

The relevant part of the disputed domain name <cantorfitzgerdbank.com> incorporates the CANTOR trademark in its entirety, and a misspelled version of the CANTOR FITZGERALD trademark in which the letters “al” in “fitzgerald” are missing, followed by the word “bank”. The Panel regards this misspelling as insignificant, because the CANTOR FITZGERALD trademark is still recognizable both visually and phonetically. As with the other disputed domain name discussed above in this section, the additional element “bank” in the disputed domain name does not affect the confusing similarity between the CANTOR and CANTOR FITZGERALD trademarks and this disputed domain name. As discussed in section 1.9 of the [WIPO Overview 3.0](#), a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element.

The relevant part of the disputed domain name <intcantorb.com> incorporates the CANTOR trademark in its entirety with the addition of the elements “int” and the letter “b”. As noted by the Complainant, the “int” element appears as an abbreviation for “international”, while the letter “b” may be regarded as signifying the dictionary word “bank”. In any case, the CANTOR trademark is recognizable in this disputed domain name, and the additional elements in it do not affect its confusing similarity with the CANTOR trademark. See section 1.8 of the [WIPO Overview 3.0](#).

Therefore, the Panel finds that the disputed domain names are confusingly similar to the CANTOR and CANTOR FITZGERALD trademarks.

B. Rights or Legitimate Interests

While the overall burden of proof in UDRP proceedings is on the complainant, UDRP panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant contends that the Respondents have no rights or legitimate interests in the disputed domain names, stating that there is no relationship between the Parties and the Respondents are not commonly known under the disputed domain names, but have provided fake contact details to the Registrars. The Complainant notes that it has not authorized the Respondents to use the CANTOR and CANTOR FITZGERALD trademarks, and that the Respondents' intent was to benefit from the goodwill of the CANTOR and CANTOR FITZGERALD trademarks by impersonating the Complainant in order to mislead unsuspecting consumers, collect their personal and financial information and documents, and obtain money from them. The Complainant explains that the Respondents are also using the disputed domain names for websites that offer services that are similar to the Complainant's services. The Complainant has thus established a *prima facie* case that the Respondents lack rights or legitimate interests in the disputed domain names.

The Respondents have not disputed the Complainant's statements and the evidence submitted by it. They have not provided any plausible explanation of their actions, and as discussed in section 6.1 above, it appears more likely that they are acting in concert or are under common control.

The Complainant has provided evidence which supports the conclusion that the Respondents have registered and used the disputed domain names to impersonate the Complainant and to deceive Internet users that they are being contacted by the Complainant and are entitled to receive a false donation of USD 1.5 million (through the use of what appears as official letterheads of the Complainant and email addresses at the disputed domain names), in order to induce them to provide copies of their identification documents, information about their addresses and bank accounts, and to make payments in the expectation that they would receive the false donations. This is not a legitimate activity giving rise to rights or legitimate interests in the disputed domain names.

Therefore, the Panel finds that the Complainant's *prima facie* case has remained un rebutted, and that the Respondents do not have rights or legitimate interests in the disputed domain names.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists four illustrative alternative circumstances that shall be evidence of the registration and use of a domain name in bad faith by a respondent, namely:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

In the present case, the disputed domain names are confusingly similar to the Complainant's CANTOR and CANTOR FITZGERALD trademarks and to the names of the Complainant and some of its affiliates. The evidence in the case shows that the disputed domain names have been used in connection with a fraudulent scheme to impersonate the Complainant and to deceive Internet users as part of a fraudulent scheme.

In view of the above, the Panel finds that the Respondents were aware of the Complainant's CANTOR and CANTOR FITZGERALD trademarks when registering the disputed domain names, and that by registering and using them acting in concert or being under common control, the Respondents have engaged in an attempt to pass themselves off as the Complainant to induce the Complainants' current and potential customers into disclosing personal information and documents and paying money for the Respondents' own commercial benefit. Therefore, the Panel finds that the disputed domain names have been registered and are being used in bad faith.

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 <cantorfitzgeraldbank.com>, <cantorfitzgerdbank.com> and <intcantorb.com> be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: August 29, 2022