

ADMINISTRATIVE PANEL DECISION

Hacona KFT. v. Registration Private, CATCHDADDY LLC
Case No. D2023-4506

1. The Parties

The Complainant is Hacona KFT.,¹ Hungary, represented by Szecskay Attorneys at Law, Hungary.

The Respondent is Registration Private, CATCHDADDY LLC, United States of America.

2. The Domain Name and Registrar

The disputed domain name <ocoono.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 October 30, 2023. On October 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 1, 2023, 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 (Super Privacy Service Ltd c/o Dynabot) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 9, 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 amendment to the Complaint on November 14, 2023.

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”).

¹ The Panel notes that the Complainant identifies itself as Hacona KFT., and Hacona Packaging Technology KFT in different parts of the Complaint. Hereafter, the Panel will treat “the Complainant” as including both Hacona KFT., and Hacona Packaging Technology KFT - if these are two separate legal entities. This is on the basis that, if so, (a) they are likely part of a group of companies that have a specific common grievance against the Respondent and the Respondent has engaged in common conduct that has affected the Complainants in similar fashion, and (b) it would be equitable and procedurally efficient to permit the consolidation. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 4.11.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on November 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 6, 2023.

The Center appointed Adam Taylor as the sole panelist in this matter on December 8, 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, founded in 1990, supplies industrial foil sealing and vacuum machines. It employs 35 people and has sold more than 80,000 machines worldwide.

On January 12, 2023, the Complainant applied for the following trade marks for OCOONO in classes 9, 35, 38, 39, 41 and 42:

- Hungarian trade mark No. 241135, registered on June 29, 2023; and
- European Union ("EU") trade mark application No. 018820978, still pending.

The disputed domain name was registered on January 12, 2023. Thereafter it resolved to a website offering the disputed domain name for sale for USD 4,995 via dan.com.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for transfer of the disputed domain name.

Notably, the Complainant contends that the Respondent registered the disputed domain name as part of a pattern of bad faith conduct whereby it registers domain names corresponding to EU trade mark filings; and that it is highly likely that the Respondent, using the same privacy service as in this case, was responsible for registering another domain name on January 12, 2023, <pallmallplatina.com>, that reflected another EU trade mark applied for that day and was also thereafter offered for sale for USD 4,995 via dan.com.

B. Respondent

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

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- the disputed domain name has been registered and is being used in bad faith.

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 trade mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds 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.

Based on the available record, 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 recognised 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.

Paragraph 4(c) of the Policy gives examples of circumstances which, if proved, suffice to demonstrate that a respondent possesses rights or legitimate interests.

As to paragraph 4(c)(i) of the Policy, using the disputed domain name for a website offering the disputed domain name for sale does not constitute a *bona fide* offering in the circumstances outlined in section 6C below where the Panel has concluded that the Respondent registered the disputed domain name for the purpose of sale to the Complainant or to a competitor of the Complainant.

Nor is there any evidence that paragraphs 4(c)(ii) or (iii) of the Policy are relevant in the circumstances of this case.

Based on the available record, 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 disputed domain name was registered on the same day that the Complainant applied for its highly distinctive Hungarian and EU trade marks and that, per the evidence supplied by the Complainant, it is likely that the Respondent has engaged in a pattern of similar conduct vis-à-vis other EU trade marks. In these circumstances, the Panel has little difficulty concluding that the Respondent's sale offer on its website was directly aimed at the Complainant and, accordingly, that the Respondent registered the disputed domain name for sale to the Complainant or to a competitor of the Complainant for an amount likely in excess of the Respondent's out-of-pocket costs in accordance with paragraph 4(b)(i) of the Policy.

Furthermore, the Panel notes that there is a "Russian doll" scenario in this case whereby, not only was the disputed domain name registered through a privacy service, but the underlying registrant "disclosed" by the Registrar following the filing of the Complaint turned out to be yet another privacy service. Such "multi-layered obfuscation" may support an inference of bad faith, e.g., as an attempt to shield illegitimate conduct from a UDRP proceeding. [WIPO Overview 3.0](#), section 4.4.6.

Based on the available record, the Panel finds the third element of the Policy has been established.

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 <ocoono.com> be transferred to the Complainant.

/Adam Taylor/

Adam Taylor

Sole Panelist

Date: December 20, 2023