Decision for dispute CAC-UDRP-106038

Case number	CAC-UDRP-106038
Time of filing	2023-12-14 13:05:22
Domain names	pentairusdt.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Pentair Flow Services AG

Complainant representative

Organization	HSS IPM GmbH

Respondent

Name	chenxu

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the proprietor of several trademark registrations containing the word element "PENTAIR" alone, e.g. US trademark Reg. No. 2573714, registered on 28 May 2002, or in combination with a logo, e.g. EU trademark No. 11008414, registered on 23 January 2013 (collectively referred to as the "**PENTAIR trademarks**").

FACTUAL BACKGROUND

The Complainant is a Swiss company belonging to the global Pentair Group ("Pentair Group"), which was founded in 1966 and is active in the water industry, manufacturing, selling and marketing its products in several countries around the world.

Pentair Inc, an affiliate of the Complainant, owns the domain names www.pentair.com (registered on 17/10/1996), www.pentair.net (registered on 25/12/2003) and www.pentair.org (registered on 3/11/2010).

The disputed domain name <pentairusdt.com> was registered by the Respondent on 9 November 2023.

PARTIES CONTENTIONS

1. **Complainant**

The Complainant argues that it registered trademarks for PENTAIR long before the disputed domain name was registered. The Complainant contends that the disputed domain name is confusingly similar to the Complainant's PENTAIR trademarks, noting that it incorporates the Complainant's PENTAIR trademark in its entirety with the addition of the letters "USDT", which, in light of the use of the disputed domain name, is the commonly understood acronym for "US Dollar Tether", a type of cryptocurrency known as a stablecoin. The Complainant further alleges that the mere addition of letters in combination with the Complainant's trademark PENTAIR in the domain name exaggerates the impression that the Respondent is somehow affiliated with the Complainants and that the Respondent does business using the Complainants' trademarks.

The Complainant further alleges that the Respondent has no rights or legitimate interests in the disputed domain name.

In particular, the Complainant notes that the Respondent is not using the disputed domain name in connection with a bona fide offer of goods or services. At the time this Complaint was prepared, the disputed domain name displayed the Complainant's logo and photographs of the Complainant's commercial buildings with the Complainant's signage, awards, events, and promotional materials. In addition, the website falsely claimed to be an authorised USDT platform associated with the complainant. The Complainant further alleges that when users click on various links such as "Project", "Team Awards", "Personal Centre" and any related images, they are redirected to a login page that requests personal information such as email addresses and passwords. The Complainant states that the website associated with the disputed domain name is likely to be used to deceive users into participating in the activities it purports to promote, namely trading USDT, potentially resulting in financial loss or compromise of personal data. This unauthorised use of the Complainant's trademarks and false claims of legitimacy pose a significant threat not only to the Complainant's intellectual property rights, but also to the unsuspecting visitors who may fall victim to fraudulent activities associated with this domain.

The Complainant has not established that the Respondent is commonly known by the disputed domain name or that it has any interest in the domain name or a substantial part of it.

Finally, the Complainant has not found any evidence that the respondent has a known legitimate non-commercial use of the disputed domain name. The website associated with the disputed domain name is not used for informational or critical purposes, or for any other purpose that might be considered fair use. The Respondent is using the domain names in furtherance of potentially fraudulent activities, namely impersonating the Complainant and claiming that the website is an authorised USDT platform.

The Complainant alleges that the Respondent has registered and is using the disputed domain name in bad faith.

With respect to the bad faith registration, the Complainant submits that the Complainant's PENTAIR trademarks existed long before the registration of the disputed domain name and that the Respondent was never authorised by the Complainant to register the disputed domain name, nor does the Complainant has any relationship with the Respondent. The Complainant's active business presence in various markets and on a significant scale throughout the world makes it apparent that the Respondent was aware that the registration of the disputed domain name was unauthorised.

The trademark PENTAIR is registered by the Complainant in numerous territories and has been used by the Complainant's group for several decades. The Complainant's PENTAIR trademark is distinctive and widely known in its industry. For example, a company of the Pentair Group, namely Pentair plc, was awarded the 2022 ENERGY STAR Partner of the Year - Sustained Excellence Award by the US Environmental Protection Agency (EPA) and the US Department of Energy. In addition, the Complainant submits that when the term "PENTAIR" is entered into the Google search engine, the results returned are indicative of the Complainant's business activities. For these reasons, it is reasonable to conclude that the Respondent knew or should have known of the Complainant's trademark at the time of registration.

With respect to bad faith use, Complainant alleges that, due to concerns about potential fraud, Complainant submitted a takedown request to the Registrar by email on 24 November 2023 and also used the Alibaba Cloud IPR Infringement Report Form, which was duly submitted on 30 November 2023. In the takedown request, the Complainant requested the Registrar to deactivate the <pentairusdt.com> domain name and all associated content that infringes the Complainant's trademarks and intellectual property rights. The Complainant alleges that, as of the date of this Complaint, the disputed domain name resolves to an active website displaying the Complainant's logo, a similar colour palette, and related images. In addition, the website displays a message that seeks to attract the attention of visitors by mentioning financial rewards for joining the project. The numerous mentions of the Complainant's trademark and the use of the Complainant's related images and promotional materials on the website associated with the disputed domain name make it highly likely that Internet users will believe that there is an association between the disputed domain name and the Complainant. This indicates the Respondent's intention to attempt to attract Internet users to its website by creating a likelihood of confusion between the disputed domain name and the PENTAIR Trademark.

Respondent

No administratively compliant response has been submitted by the Respondent.

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

The Complainant has demonstrated that it is the rightful owner of several word and figurative marks which include the word "PENTAIR" as their dominant and distinctive element and which enjoy legal protection in the European Union, the United States and several other countries. The Panel acknowledges that the aforementioned dominant element "PENTAIR" is clearly identifiable in the disputed domain name and agrees with the Complainant that the additional word elements contained in the disputed domain name, namely "usdt" and ".com" (GTLD), are not sufficient to prevent a likelihood of confusion with the Complainant's PENTAIR trademarks.

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

A complainant is required to establish a prima facie case that the respondent lacks rights or legitimate interests. Once such a case is made, the burden of proof shifts to the respondent to demonstrate their rights or legitimate interests in the disputed domain name. Failure to do so results in the complainant satisfying paragraph 4(a)(ii) of the Policy (as per Article 2.1 of WIPO Jurisprudential Overview 3.0 and WIPO Case No. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd.).

Based on the contentions of the Complainant, the Panel finds that the Complainant has successfully established a prima facie case that the Respondent lacks rights or legitimate interests. As the Respondent has failed to provide relevant evidence demonstrating any such rights or legitimate interests, the Complainant is deemed to have satisfied the second element.

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

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 Article 3.1. of WIPO Jurisprudential Overview 3.0).

Registration in bad faith

In finding that the disputed domain name was registered in bad faith, the Panel considered, in particular, the longstanding and global presence of the Complainant's trademark "PENTAIR", which is also the distinctive part of the Complainant's company name, in the marketplace long before the date of registration of the disputed domain name in 2023. The Panel also notes that on the website associated with the disputed domain name, the Respondent used the Complainant's logo, which is included in numerous of the Complainant's PENTAIR trademarks. The use of such a logo is, in the Panel's view, a clear indication that the Respondent was aware of the Complainant's and PENTAIR's trademarks when it registered the disputed domain name.

Based on the foregoing, the Panel concludes that the Respondent must have been aware of the Complainant and its PENTAIR trademarks when it registered the disputed domain name.

Therefore, the Panel finds that the Respondent registered the disputed domain name in bad faith.

Bad faith use

The Respondent's use of the word mark PENTAIR and the Complainant's logo, which are part of the Complainant's figurative marks, such as the EUTM No. 011008414, on the website under the disputed domain name (for example, on the images of the building), in combination with the content showing the daily income and the activation prices, which claim to be related to the Complainant's products, and a message that attracts the attention of visitors by mentioning financial bonuses resulting from joining the project, can be clearly classified as Respondent´s deliberate and potentially fraudulent use of the disputed domain name by the Respondent in an attempt to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of that website.

Pursuant to paragraph 4(b)(iv) of the Policy, this constitutes evidence of both bad faith registration and bad faith use for the purposes of paragraph 4(a)(iii).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

The Panel has determined that the disputed domain name is confusingly similar to the Complainant's trademark.

Based on the contentions presented by the Complainant, the Panel has found that the Complainant has satisfactorily made a prima facie case that the Respondent lacks rights or legitimate interests. As the Respondent has failed to provide relevant evidence demonstrating any such rights or legitimate interests, the Complainant is deemed to have satisfied the second element.

The Panel finds that, based on the Complainant's contentions and evidence, it can be concluded that the Respondent must have been aware of the Complainant's trademarks when it registered the disputed domain name, and as such, the Respondent has registered the disputed domain name in bad faith.

Lastly, the Panel has concluded that the Complainant has successfully proven that the disputed domain name is being used in bad faith.

Therefore, for the aforementioned reasons, the Panel orders that the disputed domain name <pentairusdt.com> be transferred to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **pentairusdt.com**: Transferred

PANELLISTS

Name	**Karel Šindelka**

DATE OF PANEL DECISION 2024-01-23

Publish the Decision