Decision for dispute CAC-UDRP-106119

Case number	CAC-UDRP-106119
Time of filing	2024-01-02 11:14:30
Domain names	finance-pentair.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Pentair Flow Services AG

Complainant representative

Organization	HSS IPM GmbH

Respondent

Name	William Simmons

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

Complainant is the owner of the trademark PENTAIR registered with the United States Patent and Trademark Office with registration number 50003584 and registration date 19 July 2016.

FACTUAL BACKGROUND

According to the information provided by the registrar the disputed domain name <finance-pentair.com> was registered on 17 September 2023.

The disputed domain name does not resolve to an active website. In addition, MX records have been set up.

PARTIES CONTENTIONS

COMPLAINANT:

According to the information submitted by Complainant, Complainant is a business within the Pentair Group of companies (“Pentair Group”). Founded in 1966, the Pentair Group is a leader in the water industry, composed of companies around the world. The official website of Pentair Group is found at www.pentair.com. From approximately 135 locations in 26 countries, Pentair Group has more than 11,000 employees. Pentair Group’s 2022 net sales were approximately $4.1 billion.

According to Complainant the disputed domain name is confusingly similar to Complainant's trademark. Complainant asserts that the disputed domain name directly and entirely incorporates Complainant’s registered trademark PENTAIR along with the generic term ‘‘finance’’, a term that can be considered related to Complainant’s business.

According to Complainant, Respondent has no rights or legitimate interest in the disputed domain name. Respondent bears no relationship to Complainant and its trademarks, and the disputed domain name has no other meaning except for referring to Complainant’s name and trademarks. Respondent is not commonly known by the disputed domain name, and further has never been authorized by Complainant to register the disputed domain name, nor does Complainant have any relationship with Respondent.

According to Complainant the disputed domain name is registered and is being used in bad faith. The disputed domain name is not being used in connection with a bona fide offer of goods or services and inference of bad faith registration and use is also given by the fact that there is no active content. Currently, the disputed domain name has active MX records, meaning that fraudulent emails could be sent from an address which would be likely to make a recipient believe that it is a legitimate communication from Complainant in connection with financial matters. Finally, Complainant’s distinctive trademark registrations long predate Respondent’s disputed domain name registration. This constitutes bad faith due to the gap of several years between the registration of Complainant’s trademarks and Respondent’s registration of the disputed domain name.

RESPONDENT: NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

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 Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

Complainant has, to the satisfaction of the Panel, shown 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).

BAD FAITH

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).

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

In the opinion of the Panel the disputed domain name is confusingly similar to Complainant's trademark (Policy, Par. 4 (a)(i)). Many UDRP decisions have found that a disputed domain name is identical or confusingly similar to a complainant’s trademark where the disputed domain name incorporates the complainant’s trademark or the principal part thereof in its entirety. Complainant has established that it is the owner of trademark registrations for PENTAIR. The disputed domain name incorporates the entirety of the well-known PENTAIR trademark as its distinctive element. The addition of the generic term “finance” and the hyphen “-“ in the disputed domain name, is insufficient to avoid a finding of confusing similarity as the PENTAIR trademark remains the dominant component of the disputed domain name. The top-level domain “com” in the disputed domain name may be disregarded.
The Panel notes that Complainant’s registration of its trademark predates the creation date of the disputed domain name.

In the opinion of the Panel Complainant has made a prima facie case that Respondent lacks rights or legitimate interest in the disputed domain name. Complainant has not licensed or otherwise permitted Respondent to use its trademark or to register the

disputed domain name incorporating its mark. Respondent is not making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark of Complainant. Respondent is not commonly known by the disputed domain name nor has it acquired trademark rights. Complainant has no relationship with Respondent. Respondent did not submit any response.
Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the disputed domain name has been registered and is being used in bad faith. Complainant has rights in the PENTAIR trademark. Respondent knew or should have known that the disputed domain name included Complainant's well-known mark. The Panel notes the undisputed submission of Complainant that the disputed domain name does not resolve to an active website. It is well established that non-use of a domain name does not prevent a finding of bad faith use under the doctrine of passive holding (see section 3.3. of the WIPO Overview 3.0).
The undisputed submission that there are active MX records connected to the disputed domain name, suggests that it is unlikely that Respondent will be able to make any good faith use of the disputed domain name as part of an e-mail address. The record in this case contains no evidence of illegal behavior, but the configuration of MX records presents the potential for an email phishing scheme impersonating Complainant.
The Panel further notes that the disputed domain name incorporates Complainant's well-known trademark in its entirety which indicates, in the circumstances of this case, that Respondent registered and used the disputed domain name with the intention to attract, for commercial gain, Internet users to the website by creating a likelihood of confusion with the trademarks of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **finance-pentair.com**: Transferred

PANELLISTS

Name	**Dinant T.L. Oosterbaan**

DATE OF PANEL DECISION 2024-02-05

Publish the Decision