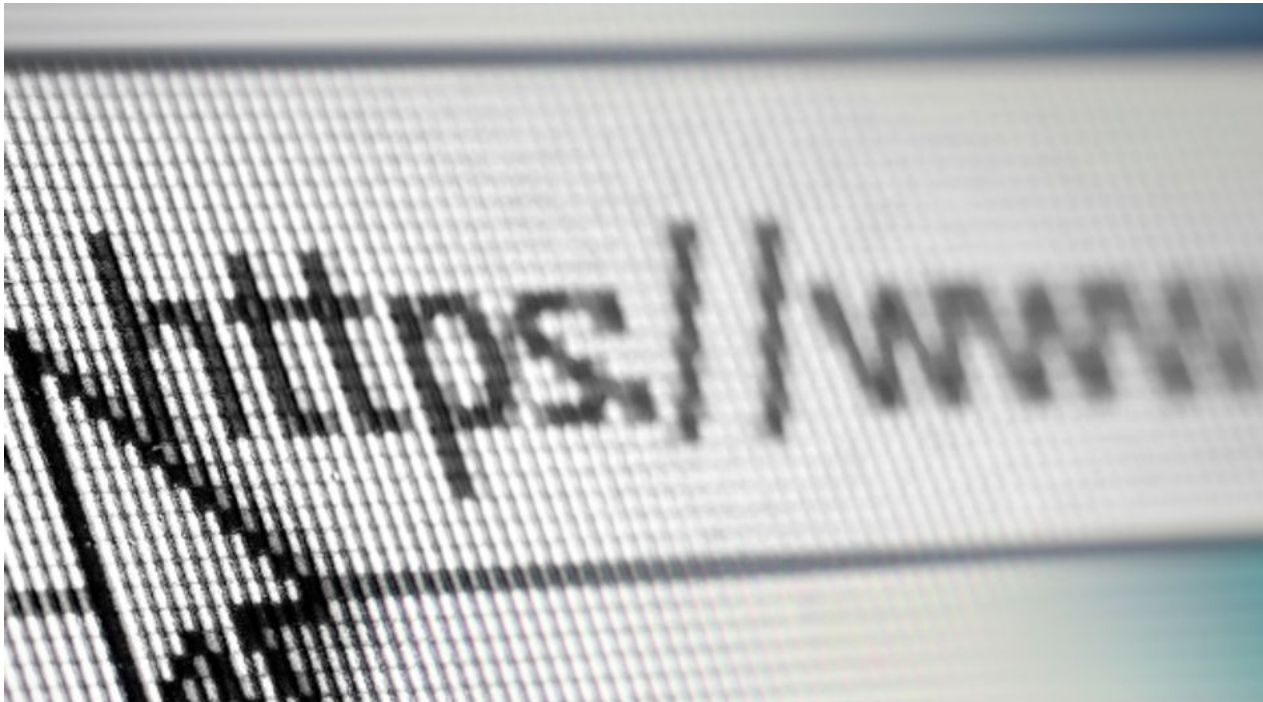


Respondent's plausible explanation results in denial of UDRP complaint

Jane Seager and Gabrielle Creppy

Hogan Lovells

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- CitiusTech sought the transfer of 'citustech.com' under the UDRP
- The panel highlighted several factors which led it to think that the respondent had, on a balance of probabilities, not registered the domain name in bad faith
- Among other things, the respondent had provided a plausible explanation to justify his registration of the domain name

In a recent [decision](#) under the [Uniform Domain Name Dispute Resolution Policy](#) (UDRP) before WIPO, a panel has denied a UDRP complaint for the domain name 'citustech.com', finding that the complainant had failed to prove that the respondent had registered the domain name in bad faith.

Background

The complainant was CitiusTech Healthcare Technology Private Limited, an Indian company operating in several countries across the world. The complainant provided consulting and digital technology to healthcare and life science companies. The complainant owned a trademark for CITIUSTECH registered in 2014 and claimed that it started to use CITIUSTECH as its brand and logo in 2005. The complainant argued that it grew exponentially as of 2013, earning more than 95% of its cumulative revenue after this year, and was awarded multiple business awards. The complainant also asserted common law trademark rights in CITIUSTECH.

The respondent was Anthony Moussa, an individual, and MOO Companies Inc, the company created by him. The respondent registered the domain name on 15 May 2013 and had never actively used it. Rather, the domain name resolved to a parking page where it was offered for sale. The respondent argued that he was unaware of the existence of the complainant when he

registered the domain name in 2013, but came up with the name 'Citius Tech' for his IT company by combining the term 'tech' with the translation of the term 'quick' in Latin. The respondent also argued that the terms 'citius' and 'citus' were not synonyms and comprised a different number of syllables.

To be successful in a complaint under the UDRP, a complainant must satisfy the requirements of Paragraph 4(a) of the UDRP, namely that:

1. the domain name registered by the respondent is identical, or confusingly similar, to a trademark or service mark in which the complainant has rights;
2. the respondent has no rights or legitimate interests in respect of the domain name; and
3. the domain name has been registered and is being used in bad faith.

Decision

As far as the first element was concerned, the panel found that the complainant had established rights in the CITIUSTECH trademark, and that the domain name was confusingly similar to the complainant's registered trade mark.

The panel declined to rule with regard to the second element, considering it was unnecessary given its findings under the third element.

With regard to the third element, the panel found that the complainant had failed to establish that the respondent had registered the domain name in bad faith. The panel underlined several factors which led it to think that the respondent had, on a balance of probabilities, not registered the domain name in bad faith, in particular:

1. 'citus' and 'citius' were two different words;
2. the complainant did not have any trademark rights when the domain name was registered;
3. the complainant had not established a reputation such that the respondent could not ignore its existence when he registered the domain name;
4. the complainant had not evidenced its presence in the United States where the respondent resided; and
5. the respondent had provided a plausible explanation to justify his registration of the domain name.

The complaint was therefore denied.

Comment

This decision once again illustrates that a complainant should be extremely careful before filing a complaint under the UDRP when a domain name registration pre-dates their registered trademark rights and common law rights are not clear, in which case bad faith can be established only in very limited circumstances. The mere fact that a domain name is parked and offered for sale will not suffice if no evidence of targeting is available.

Jane Seager

Author | Partner

jane.seager@hoganlovells.com

Hogan Lovells

Gabrielle Creppy

Author | Associate

gabrielle.creppy@hoganlovells.com

Hogan Lovells