

## **ADMINISTRATIVE PANEL DECISION**

**Blackbaud, Inc. v. David Czinczenheim**

**Case No. D2022-4527**

### **1. The Parties**

The Complainant is Blackbaud, Inc., United States of America (“United States”), represented by Soteria LLC, United States.

The Respondent is David Czinczenheim, United States.<sup>1</sup>

### **2. The Domain Name and Registrar**

The disputed domain name <blackbaudondemand.online> (the “Disputed Domain Name”) is registered with Network Solutions, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 28, 2022. On November 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On November 30, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on December 1, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint.

The Center verified that 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

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<sup>1</sup> The Panel notes that the Complaint was filed against Blackbaud, Inc, as that was the name of the registrant organization for the Disputed Domain Name as identified in the Whois record provided as Annex 2 to the Complaint. However, the Panel notes that the Complainant states that while the registrant organization is listed as “Blackbaud, Inc”, the disputed domain name is not associated with the Complainant in any way, and that the Complainant does not use Network Solutions for its domain name registrations. In addition, the Panel notes that the Registrar’s verification response stated that Blackbaud, LLC/System Administrator is the current registrant of the disputed domain name, but also provided the name David Czinczenheim as registrant of the Disputed Domain Name. In the circumstances of this case, the Panel finds more likely than not that the name Blackbaud may have been used by a third party (or by David Czinczenheim) as the registrant organization to support the appearance of connection of the Disputed Domain Name with the Complainant.

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 Respondent of the Complaint, and the proceedings commenced on December 9, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 29, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 5, 2023.

The Center appointed Colin T. O’Brien as the sole panelist in this matter on January 19, 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**

As described on its official website at “www.blackbaud.com”, the Complainant is a cloud software vendor serving nonprofits, foundations, education institutes, and other charitable organizations.

The Complainant owns two United States trademark registrations for BLACKBAUD registered on September 5, 2017, Registration Numbers 5,280,411 and 5,280,412 with a first use date of 1982.

The Disputed Domain Name was registered on May 5, 2022, and does not resolve to an active webpage.

#### **5. Parties’ Contentions**

##### **A. Complainant**

Once the gTLD “.online” is ignored, the Disputed Domain Name consists of the whole of the Complainant’s registered trademark BLACKBAUD followed by the words “ondemand”. The Complainant is known mainly as “Blackbaud”, and its website is located at “blackbaud.com”. The Disputed Domain Name contains or is confusingly similar to the BLACKBAUD trademark, trade name, and domain name (<blackbaud.com>).

The registrant of the Disputed Domain Name is neither affiliated nor authorized by the company to register or use the BLACKBAUD trademark. Although the registrant organization is listed as “Blackbaud, Inc”, this domain is not associated with the Complainant in any way. The Respondent has neither used the Disputed Domain Name nor provided any proof of preparations for a *bona fide* offering of goods or services as any attempts to visit the website does not resolve to an active website. The Disputed Domain Name has been registered for 30+ days, and likely will not be used for any legitimate business.

Although the WhoIs record suggests the Disputed Domain Name was registered by “Blackbaud, Inc”, the Complainant does not use Network Solutions for their domain registration needs. The Complainant served a Cease and Desist letter to the registrar’s support contact and asked for the letter to be forwarded to the domain owner but did not receive a response.

The registration of the Disputed Domain Name is disruptive to the Complainant’s business operation due to the confusingly similar domain name to the Complainant’s domain name <blackbaud.com>. The Complainant serves nonprofits, foundations, education institutes, and other charitable organizations. The Disputed Domain Name may dissuade potential clients from conducting business with our the Complainant due to the Disputed Domain Name. In addition, the WhoIs record strongly suggests that the domain owner is attempting to impersonate the Blackbaud brand as the registrant organization is listed as Blackbaud. The Respondent has likely registered the Disputed Domain Name in order to sell its rights to the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

The Complainant has demonstrated it owns registered trademark rights in the BLACKBAUD trademark. The addition of the term "ondemand" does not prevent a finding of confusing similarity as the Complainant's BLACKBAUD mark is clearly recognizable in the Disputed Domain Name. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Accordingly, the Disputed Domain Name is confusingly similar to a mark in which the Complainant has rights.

### **B. Rights or Legitimate Interests**

The Complainant has presented a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and that the Respondent has not been commonly known by the Disputed Domain Name. The fact that the Respondent obtained the Disputed Domain Name years after the Complainant had begun using its unique BLACKBAUD mark, indicates that the Respondent sought to piggyback on the mark for illegitimate reasons.

After a complainant has made a *prima facie* case, the burden of production shifts to present evidence demonstrating rights or legitimate interests in the domain name. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

Here, the Respondent has provided no evidence of any rights or legitimate interests in the Disputed Domain Name, and rather the nature of the Disputed Domain Name including the Complainant's BLACKBAUD mark in its entirety, with the term "ondemand", suggests that it was registered to eventually impersonate or falsely suggest sponsorship or endorsement by the Complainant (see section 2.5.1 of the [WIPO Overview 3.0](#)).

In absence of any evidence rebutting the Complainant's *prima facie* case indicating the Respondent's lack of rights or legitimate interests in respect of the Disputed Domain Name, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

The Disputed Domain Name was registered years after the Complainant first registered and used its BLACKBAUD mark. A review of the Complainant's website at <blackbaud.com> shows the use of BLACKBAUD in commerce this, combined with the absence of any evidence provided by the Respondent to the contrary, is sufficient to satisfy the Panel that, at the time the Disputed Domain Name was registered, the Respondent knew of the Complainant's BLACKBAUD mark, and registered it because of its confusing similarity with the Complainant's BLACKBAUD mark.

Moreover, UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to long standing (famous or widely-known) trademark by an unaffiliated entity can by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

The Panel finds in the circumstances of this case that the only plausible basis for registering and passively holding the Disputed Domain Name is for illegitimate and bad faith purposes.

Accordingly, the Panel finds that the Disputed Domain Name has been registered and is 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 name <blackbaudondemand.online> be transferred to the Complainant.

*/Colin T. O'Brien/*

**Colin T. O'Brien**

Sole Panelist

Date: February 2, 2023