

## **ADMINISTRATIVE PANEL DECISION**

### **EWORk Group AB v. George Thomas**

### **Case No. D2023-1564**

#### **1. The Parties**

The Complainant is EWORK Group AB, Sweden, represented by Ports Group AB, Sweden.

The Respondent is George Thomas, Italy.

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

The disputed domain name <eworkgroup.org> is registered with NameCheap, Inc. (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 11, 2023. On April 11, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 11, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 18, 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 amended Complaint on April 19, 2023.

The Center verified that the Complaint together with the amended 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”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on April 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 16, 2023.

The Center appointed Aaron Newell as the sole panelist in this matter on June 1, 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 disputed domain name was registered on February 12, 2023, and the publicly-available Whois was redacted.

The Complainant

- i) is a professional recruitment consultancy firm operating in Sweden, Denmark, Norway, Finland, and Poland;
- ii) operates its primary website at “www.eworkgroup.com” and appears to have done business at this website and domain name since at least 2017;
- iii) submitted evidence demonstrating that it owns a portfolio of trade mark registrations for EWORK, EWORK GROUP, and/or other EWORK-formative marks, including Sweden registration no 200508335 EWORK filed November 8, 2005, and registered October 13, 2006, and European Union Trade Mark Registration no 018685174 EWORK GROUP (word mark) filed April 8, 2022, and registered October 12, 2022;
- iv) submitted evidence demonstrating that the disputed domain name has been used to impersonate the Complainant in emails to third parties. The Complainant alleges that this use amounts to the use of the disputed domain name for phishing;
- v) submitted evidence demonstrating that no website loads at the disputed domain name.

The Panel notes that the Respondent did not respond to the Complaint or otherwise engage in the proceedings.

#### **5. Parties' Contentions**

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

The Complainant alleges that

- i) its use of the EWORK GROUP name predates the registration of the disputed domain name;
- ii) it has valid and subsisting registered trade mark rights for EWORK, EWORK GROUP, and other EWORK-formative trade marks;
- iii) the Respondent has no rights in “ework” and has not used the disputed domain name for a valid purpose;
- iv) the Respondent is not authorized to use the Complainant's trade marks;
- v) the Respondent was aware of the Complainant prior to registering the disputed domain name;
- vi) the Respondent has used the disputed domain name to impersonate the Complainant and for phishing purposes.

The Complainant seeks transfer of the disputed domain name.

##### **B. Respondent**

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

## 6. Discussion and Findings

Paragraph 4(a) of the Policy requires that the Complainant prove:

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

### A. Identical or Confusingly Similar

Discounting the generic Top Level Domain “.org”, the disputed domain name is identical to the EWORK GROUP trade mark in which the Complainant has rights. The Panel finds that the disputed domain name is also confusingly similar to the Complainant’s trade mark registrations for EWORK, the additional term “group” not preventing the confusing similarity.

### B. Rights or Legitimate Interests

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

By way of its assertions outlined above in section 5.A., the Complainant has made out a *prima facie* case that the Respondent does not have rights and/or legitimate interests in the disputed domain name. Specifically, using a domain name for the purposes of impersonation and phishing cannot confer rights or legitimate interests. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 2.13.

The Respondent did not respond, and therefore has done nothing to challenge the Complainant’s *prima facie* case.

Accordingly, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

### C. Registered and Used in Bad Faith

The Complainant submits evidence that the disputed domain name was, during the time that it was controlled by the Respondent, used to impersonate the Complainant by way of email communications sent to third parties. This evidence takes the form of a copy of one such impersonating email. Use of a domain name to impersonate is manifestly considered evidence of bad faith ([WIPO Overview 3.0](#), section 3.1.4).

The Complainant’s evidence is convincing and was not challenged by the Respondent.

In the circumstances the Panel is entitled to find that the disputed domain name was registered and used for the bad faith purposes demonstrated in the Complainant’s evidence. The Panel so finds.

## **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 <eworkgroup.org> be transferred to the Complainant.

*/Aaron Newell/*

**Aaron Newell**

Sole Panelist

Date: June 16, 2023