

ADMINISTRATIVE PANEL DECISION

PPC Industries, Inc. v. Marissa Kerley
Case No. D2023-4389

1. The Parties

Complainant is PPC Industries, Inc., United States of America ("United States"), represented by Nelson Mullins Riley & Scarborough, LLP, United States.

Respondent is Marissa Kerley, United States.

2. The Domain Name and Registrar

The disputed domain name <spectrumplasticcareers.com> is registered with NameSilo, LLC ("Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center ("Center") on October 23, 2023. On October 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 24, 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 that in the Complaint (i.e., Redacted for Privacy / PrivacyGuardian.org llc). The Center sent an email communication to Complainant on October 26, 2023, providing the registrant and contact information disclosed by the Registrar and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on October 27, 2023.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy ("Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy ("Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy ("Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on November 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 30, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on December 4, 2023.

The Center appointed Debra J. Stanek as the sole panelist in this matter on January 3, 2024. 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

Complainant does business as "Spectrum Plastics Group," which provides custom manufacturing and development services. It has been using the SPECTRUM PLASTICS GROUP trademark since 2008 and owns two United States federal trademark registrations, which it has established by providing a copy of each registration:

-SPECTRUM PLASTICS GROUP (Registration No. 3716134), registered November 24, 2009, for custom manufacturing of plastic parts and components in a variety of industries, such as aerospace, defense, and medicine.

-SPECTRUM PLASTICS GROUP and design (Registration No. 5584009), registered October 16, 2018, for similar services, as well as an array of medical and surgical devices, instruments, implants, and supplies and other services, such as warehousing and product design.

Each of these registrations disclaim exclusive rights to "plastics group."

Complainant also owns the domain name <spectrumplastics.com>, which it uses to host its website and in connection with Complainant's email addresses.

The disputed domain name was registered on October 16, 2023. Currently, the disputed domain name is parked, using a third-party service, and appears to be ready to include "pay-per-click" links. It appears that Respondent has used the disputed domain name in an email address to correspond with an individual who, stated that he had communicated "with someone from spectrum plastics who offered me a job." The individual reported that the correspondent provided an email address that used the disputed domain name.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name. In particular:

The disputed domain name is confusingly similar to Complainant's SPECTRUM PLASTICS GROUP mark:

-The "spectrum plastics" portion of its mark is "incorporated and clearly identifiable" within the disputed domain name.

-The disputed domain name is similar to Complainant's <spectrumplastics.com> domain name.

Respondent has no rights or legitimate interests in respect of the disputed domain name:

-Based on the Whois record, Respondent is not commonly known by the names "spectrum," "spectrum plastics," or "spectrum plastics group."

-Complainant has not authorized Respondent to use its SPECTRUM PLASTICS GROUP mark.

-Respondent is engaged in an illegal job offer scam, in which Respondent holds itself out as Complainant. In addition to providing a copy of a direct message (through the LinkedIn platform) from the individual described above, Complainant also contends that it has "received telephone calls from targets of Respondent's scam."

Respondent registered and is using the disputed domain name in bad faith:

- Respondent knew of Complainant and its rights in its mark because Respondent purported to offer employment with Complainant.
- Respondent's use of an email address associated with the disputed domain name to send a phishing email is evidence of bad faith registration and use.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

As noted above, Complainant submitted an amendment to the Complaint adding Marissa Kerley as a Respondent following the Registrar's disclosure. Because there is no indication that the privacy service identified as the registrant on the publicly-available WhoIs (i.e., Redacted for Privacy / PrivacyGuardian.org llc) is connected with newly-disclosed registrant, the Panel considers only Marissa Kerley as the holder of the domain name and the Respondent in this proceeding. Policy, section 1 (s.v. "Respondent"); WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.4.5.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

Although the substitution of the term "careers" for "group" after "spectrum plastics" could bear on the assessment of the second and third elements, where, as here, Complainant's mark and the disputed domain name each begin with "spectrum plastics," the Panel finds the substitution does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy, considering that the dominant portion of the Complainant's mark remains recognizable. [WIPO Overview 3.0](#), sections 1.7 and 1.8.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds that Complainant has established the first element of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on Complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult 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 (although the burden of proof always remains on Complainant). If the respondent fails to come forward with such relevant evidence, Complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainant has established a *prima facie* case that Respondent lacks rights or legitimate interests in the disputed domain name. While Complainant's evidence is somewhat thin and conclusory¹, the Panel finds that it supports a credible claim that the disputed domain name is being used to reference Complainant's mark as part of a phishing scheme. [WIPO Overview 3.0](#), section 2.13.2. The use of a domain name for such phishing activity does not confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Respondent has not rebutted Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, that, if found by the Panel to be present, evidence the registration and use of a domain name in bad faith.

In the present case, having reviewed the record, the Panel finds that use of the disputed domain name to hold Respondent out as a representative of Complainant constitutes registration and use in bad faith under the Policy. [WIPO Overview 3.0](#), section 3.4.

Based on the available record, the Panel finds that Complainant has established the third element of the Policy.

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 <spectrumplasticscareers.com> be transferred to Complainant.

/Debra J. Stanek/

Debra J. Stanek

Sole Panelist

Date: January 17, 2024

¹ For example, the contention that Complainant has "received telephone calls from targets of Respondent's scam," is not supported by any evidence.