

ADMINISTRATIVE PANEL DECISION

Josip Heit v. husni m
Case No. D2023-5341

1. The Parties

The Complainant is Josip Heit, Germany, represented by Irle Moser Rechtsanwälte, Germany.

The Respondent is husni m, United States of America.

2. The Domain Name and Registrar

The disputed domain name <gspartnergsp.global> (the “Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 22, 2023. On December 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On December 26, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 2, 2024, 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 January 5, 2024.

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 January 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 5, 2024.

The Center appointed Nicholas Weston as the sole panelist in this matter on February 14, 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.

The language of the proceeding is the language of the registration agreement, English.

4. Factual Background

The Complaint contains little information about the Complainant. Public records¹ indicate that the Complainant is an operator of a multi-level marketing (MLM) cryptocurrency investment scheme that has been the subject of warnings and orders issued by several North American securities regulators, including Alabama, British Columbia, California, Kentucky, Texas and Wisconsin.²

The Complainant European Union Trade Mark Registration No. 018494786 for the trademark GSPARTNERS, registered on September 6, 2023.

The Disputed Domain Name <gspartnergsp.global> was registered on September 13, 2023. The Complainant has alleged that the Disputed Domain Name resolves to a pay-per-click (PPC) parking page that displays links to purchase domain names of similar composition to the Disputed Domain Name. According to the record on file, the Disputed Domain Name also resolved to a login page requesting Internet users to provide their credentials.³

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

Notably, the Complainant cites its registration of the trademark GSPARTNERS in the European Union as prima facie evidence of rights in the name.

The Complainant contends that its rights in the mark GSPARTNERS predate the Respondent's registration of the Disputed Domain Name. It appears to submit that the Disputed Domain Name is confusingly similar to its trademark, because the Disputed Domain Name "contains the exact name of the trademark "GSparters" and infers that the similarity is not removed by the omission of the letter "s" or the addition of the letters "gsp", and the gTLD ".global".

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because it does not have any apparent trademark rights (registered or unregistered) to any similar name, that it has not licensed use of the trademark, and that the Respondent's

¹Noting in particular the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the UDRP Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([WIPO Overview 3.0](#)), section 4.8.

² Wisconsin Joins U.S. and Canadian Securities Regulators in Issuing an Order Against GSPartners in Alleged Global Fraud Scheme, accessed at https://dfi.wi.gov/Pages/About/NewsEvents/NewsReleases/20231117GSPartners.aspx?fbclid=IwAR1INmcSI1qswsXYTHQskBF_JG5-198OxPbGmMIMP9w9oasgNL6frJO__P0 on February 18, 2024.

use of the Disputed Domain Name to host a PPC parking page is not making a legitimate noncommercial or fair use of the Disputed Domain Name.

Finally, the Complainant alleges that the registration and use of the Disputed Domain Name was, and currently is, in bad faith, contrary to the Policy and Rules having regard to the widespread prior use of the Complainant's trademark, and that given that by its registration and use of the Disputed Domain Name to direct Internet users to a PPC webpage, "the [R]espondent is targeting the reputation of the [C]omplainant". It also contends that the use of a privacy service by the Respondent is use in bad faith. It also contends that the absence of a compliant data protection statement on the PPC parking page is use in bad faith.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant has the burden of proving the following:

- (i) that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (iii) that the Disputed Domain Name has been registered and is being used in bad faith.

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 the Complainant's trademark and the Disputed Domain Name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. The requirements of the first element for purposes of the Policy may be satisfied by a trademark registered in any country. [WIPO Overview 3.0](#), section 1.2.1. The Complainant has produced sufficient evidence to demonstrate that it has registered trademark rights in the mark GSPARTNERS.

Turning to whether the Disputed Domain Name is identical or confusingly similar to the GSPARTNERS trademark, the Panel observes that the Disputed Domain Name is comprised of: (a) a reproduction of the Complainant's trademark GSPARTNERS with the letter "s" omitted at the end of the trademark; (b) followed by the letters "gsp"; (c) followed by the gTLD ".global".

It is well established that the gTLD used as part of a domain name is generally disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1. The relevant comparison to be made is with the second-level portion of each of the Disputed Domain Name, specifically: "gspartnergsp".

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.

Although the omission of the letter "s", where it is supposed to appear at the end of the trademark, and the addition of the letters "gsp" may bear on assessment of the second and third elements, the Panel finds that these changes do not prevent a finding of confusing similarity between the Disputed Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

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

Although 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 Disputed 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 Disputed Domain Name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

[WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. The Respondent has not rebutted the 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.

The Panel prefers the Complainant’s evidence that the Disputed Domain Name resolves to a web page that contains fields inviting Internet users to submit personal information over an allegation of a PPC page without evidence. Panels have held that the use of a domain name for illegal activity such as phishing, impersonation, passing off, or other types of fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case and in the absence of any rebuttal from the Respondent, the Panel finds that the Respondent registered and has used the Disputed Domain Name in bad faith.

On the issue of registration, given the composition of the Disputed Domain Name, the Panel is satisfied that the Respondent targeted the Complainant’s trademark when it registered the Disputed Domain Name. Although the trademark is comprised of only two letters “gs” with the addition of the word “partners”, and the Disputed Domain Name omits the letter “s” from the end of the trademark in the Disputed Domain Name, the additional letters “gsp” appear to be an acronym for “gs partners” which, as the Complainant’s brand, appears to have attained a global level of notoriety.

A combination of the trademark GSPARTNERS, or in this case a recognizable version of it, with the acronym “gsp”, is in this Panel’s view, even more distinctive and readily associated with the Complainant. The Panel is prepared to infer that the Respondent knew, or should have known, that its registration would be identical or confusingly similar to the Complainant’s trademark (see [WIPO Overview 3.0](#), section 3.2.2).

On the issue of use, the Complainant's evidence supports the contention that that the Disputed Domain Name previously resolved to a potential phishing website.

Panels have held that the use of a domain name for illegal activity here, alleged phishing, impersonation or passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. The Complainant has supplied evidence that shows the relevant webpages contains fields to submit personal information. Having reviewed the record, the Panel finds the Respondent's registration and use of the Disputed Domain Name constitutes bad faith under the Policy.. The Respondent has not come forward to rebut the Complainant's allegations or offer any alternative explanation.

The Panel finds that the 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 <gsartnergsp.global> be transferred to the Complainant.

/Nicholas Weston/

Nicholas Weston

Sole Panelist

Date: February 22, 2024