

## **ADMINISTRATIVE PANEL DECISION**

ZipRecruiter, Inc. v. Caroline Pilson

Case No. D2024-0278

### **1. The Parties**

Complainant is ZipRecruiter, Inc., United States of America (“United States”), represented by SafeNames Ltd., United Kingdom.

Respondent is Caroline Pilson, United States.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 23, 2024. On January 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 23, 2024, 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, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complainant on January 24, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on January 25, 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 Respondent of the Complaint, and the proceedings commenced on January 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 18, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on February 19, 2024.

The Center appointed Bradley A. Slutsky as the sole panelist in this matter on February 26, 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 describes itself as an online recruitment company that provides recruitment services for individuals and commercial entities. Complainant asserts that it (a) attracts more than seven million active job seekers and 10,000 new companies each month, (b) has over 40 million job alert email subscribers, and (c) has, since Complainant's inception in 2010, served more than one million employers and 120 million job seekers.

Complainant has a number of trademarks for or including ZIPRECRUITER, including the following (the "ZIPRECRUITER mark"):

- United States trademark number 3934310 registered on March 22, 2011
- European Union trademark number 015070873 registered on June 13, 2016
- United Kingdom trademark number UK00915070873 registered on June 13, 2016
- United Kingdom trademark number UK00915070881 registered on June 13, 2016
- United Kingdom trademark number UK00915644041 registered on November 4, 2016
- Canadian trademark number TMA979480 registered on August 28, 2017

Complainant also operates websites using the following domain names:

- <ziprecruiter.com> registered on February 23, 2010
- <ziprecruiter.co.uk> registered on September 9, 2010
- <ziprecruiter.co.nz> registered on May 12, 2015
- <ziprecruiter.fr> registered on January 14, 2016
- <ziprecruiter.us> registered on August 24, 2018

Respondent registered the disputed domain name on August 25, 2023. Typing the disputed domain name into a web browser leads to a default web page that informs the Internet user that there is no website at the requested URL and provides contact information and potential explanations for why no content is available.

#### **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. Complainant asserts that the disputed domain name is confusingly similar to Complainant's ZIPRECRUITER mark, in that the disputed domain name consists of Complainant's entire ZIPRECRUITER mark, followed by the letter "s", followed by the generic Top-Level Domain ("gTLD") ".store". Complainant also asserts that Respondent has no rights or legitimate interests in respect of the disputed domain name, in that Respondent has not been commonly known by, and has no registered or unregistered trademark rights in, ZIPRECRUITER or ZIPRECRUITERS, is not licensed by Complainant to use Complainant's mark, and is passively holding the disputed domain name. Finally, Complainant asserts that Respondent registered and is using the disputed domain name in bad faith, in that Respondent knew or should have known of Complainant's trademarks at the time Respondent registered the disputed domain name, Respondent allegedly is engaging in typosquatting, Respondent did not respond to Complainant's cease and desist letter, Respondent is passively holding the disputed domain name despite the fact that it is confusingly similar to Complainant's distinctive ZIPRECRUITER mark, and Respondent has set up mail exchange ("MX") records for the disputed domain name, which allegedly "suggests the Respondent could engage in phishing activity through email distribution, given the evidently implied affiliation with the Disputed Domain Name due to the Complainant's ZIPRECRUITER trademark."

## B. Respondent

Respondent did not reply to Complainant's contentions.

## 6. Discussion and Findings

Pursuant to paragraph 15(a) of the Rules, a panel in UDRP proceedings "shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

Under paragraph 4(a) of the Policy, Complainant must prove the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of 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

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

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.

The entirety of the ZIPRECRUITER mark is reproduced 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. The disputed domain name consists of Complainant's ZIPRECRUITER mark, followed by the letter "s", followed by the ".store" gTLD. The addition of an "s" at the end of Complainant's mark may be viewed as the plural version of the mark. "A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element." [WIPO Overview 3.0](#), section 1.9. As noted by the panel in *JLC Licensoft Limited v. Sergey Tytarenko*, WIPO Case No. [D2019-1956](#), "the addition of the common plural signifier letter 's' does not prevent a finding of confusing similarity." Further, "[t]he applicable Top Level Domain ('TLD') in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test." [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, 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 Respondent may demonstrate rights or legitimate interests in a disputed domain name. "Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate [Respondent's] rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

- (i) before any notice to [Respondent] of the dispute, [Respondent's] use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with a bona fide offering of goods or services; or

(ii) [Respondent] (as an individual, business, or other organization) ha[s] been commonly known by the [disputed] domain name, even if [Respondent has] acquired no trademark or service mark rights; or

(iii) [Respondent is] making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue". Policy, paragraph 4(c).

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 Respondent. As such, where a complainant makes out a prima facie case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to 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 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. 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.

There is no evidence of any use or demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services, or that Respondent has been commonly known by the disputed domain name, or that Respondent is making a legitimate noncommercial or fair use of the disputed domain name.

"In light of (i) the fact that [] Complainant has not licensed or otherwise permitted [] Respondent to use any of its trademarks or to apply for or use any domain name incorporating any of those marks, and (ii) the fact that the word [ZIPRECRUITER] appears to be an invented word, and as such is not one traders would legitimately choose unless seeking to create an impression of an association with [] Complainant, the Administrative Panel finds that [] Respondent has no rights or legitimate interests in the domain name." *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

Accordingly, 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. Specifically, "the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

(i) circumstances indicating that [Respondent has] registered or [Respondent has] acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to [C]omplainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of [Respondent's] documented out-of-pocket costs directly related to the domain name; or

(ii) [Respondent has] registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that [Respondent has] engaged in a pattern of such conduct; or

(iii) [Respondent has] registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, [Respondent has] intentionally attempted to attract, for commercial gain, Internet users to [Respondent's] web site or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of [Respondent's] website or location or of a product or service on [Respondent's] website or location." Policy, paragraph 4(b).

"Given that the scenarios described in UDRP paragraph 4(b) are non-exclusive and merely illustrative, even where a complainant may not be able to demonstrate the literal or verbatim application of one of the above scenarios, evidence demonstrating that a respondent seeks to take unfair advantage of, abuse, or otherwise engage in behavior detrimental to Complainant's trademark would also satisfy Complainant's burden." [WIPO Overview 3.0](#), section 3.1.

In the present case, the Panel notes that Respondent has registered the disputed domain name which is confusingly similar to Complainant's ZIPRECRUITER mark, has done so without authorization or license from Complainant, and is passively holding the disputed domain name.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of Complainant's mark, (ii) the failure of Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) Respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of Complainant's trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Other factors contributing to bad faith in this matter include the fact that Complainant's trademark is distinctive such that Respondent knew or should have known of the trademark at the time of registration and thereafter, there is no evidence of any actual or contemplated good faith use by Respondent, there is some evidence of "typosquatting" in this matter, Respondent failed to respond to Complainant's cease and desist letter, and Respondent took the additional step of setting up MX records for the disputed domain name – enabling mail to be sent to and from the disputed domain name and creating a risk of phishing and similar activities. See, e.g., [WIPO Overview 3.0](#), section 3.1.4 ("Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith."); *CKM Holdings Inc. v. Grant Chonko, Genesis Biosciences*, WIPO Case No. [D2022-0479](#) ("Activating the MX records to designate an email server and enable email is an action beyond mere registration of the Disputed Domain Name and may constitute bad faith use."); *Facebook, Inc. and Instagram, LLC v. C W / c w, c w*, WIPO Case No. [D2018-1159](#) ("[B]ad faith may be found where the Respondent knew or should have known of the Complainant's ... Marks prior to registering the Disputed Domain Names. ... [T]he registration of a domain name that is confusingly similar to a well-known registered trademark by an entity that has no relationship to that mark may be an indication of bad faith registration and use. ... [T]he Respondent's bad faith can be inferred from its lack of reply to the cease and desist letter sent by the Complainant prior to commencing this proceeding."); *Singapore Airlines Limited v. European Travel Network*, WIPO Case No. [D2000-0641](#) ("The Panel considers that the Respondent has registered and used the domain names 'singaporeairlines.org', 'singaporeair.net' and 'singaporeair.org' in 'bad faith' for the following reasons: (a) 'singaporeairlines.org', 'singaporeair.net' and 'singaporeair.org' are so obviously connected with a well-known airline that their very use by someone with no connection with the airline suggests opportunistic bad faith"); *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#) (finding bad faith in a case of passive holding of a domain name where, among other things, "Complainant's trademark has a strong reputation and is widely known" and "Respondent has provided no evidence whatsoever of any actual or contemplated good faith use by it of the domain name").

Accordingly, 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 <ziprecruiters.store> be transferred to Complainant.

*/Bradley A. Slutsky/*

**Bradley A. Slutsky**

Sole Panelist

Date: March 1, 2024