

ADMINISTRATIVE PANEL DECISION

Blackbaud, Inc. v. JH Kang

Case No. DCO2023-0009

1. The Parties

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

The Respondent is JH Kang, Republic of Korea.

2. The Domain Name and Registrar

The disputed domain name <etapestry.co> is registered with Sav.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 27, 2023. On January 30, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 30, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on February 7, 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 February 14, 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 February 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 10, 2023.

The Center appointed Andrea Mondini as the sole panelist in this matter on March 15, 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 Complainant is a cloud computing provider offering *inter alia* database, software and CRM solutions for fundraising to non-profit organizations.

The Complainant owns the US trademark registration No. 2499853 for the word mark ETAPESTRY which was registered on October 23, 2001.

The Complainant also holds the domain name <etapestry.com>.

The disputed domain name was registered on July 6, 2022.

The disputed domain name resolves to a site with links under the headings "Online Fundraising", "Nonprofit Fundraising" and "Best Crm Software for Nonprofits".

5. Parties' Contentions

A. Complainant

The Complainant contends as follows:

The disputed domain name is identical or confusingly similar to the ETAPESTRY trademark in which the Complainant has rights, because it incorporates this trademark in its entirety, and the addition of the country code Top-Level Domain ("ccTLD") ".co" is disregarded for the confusing similarity test.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has not been commonly known by the disputed domain name and has not been authorized by the Complainant to use its trademark and there is no evidence of the Respondent's use, or demonstrable preparation to use, the disputed domain name in connection with a *bona fide* offering of goods and services.

The disputed domain name was registered in bad faith because it is obvious that the Respondent had knowledge of both the Complainant's IT solutions for fundraising and of its trademark ETAPESTRY at the time it registered the disputed domain name, considering that the disputed domain name resolves to a website with links related to fundraising. The Respondent is using the disputed domain name in bad faith because it has only used it to generate "click trough" revenue from the advertisement links on the website posted under the disputed domain name and because it offered this domain name for sale for USD 799.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the trademark or service mark in which the complainant has rights;

- (ii) the 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

The Panel is satisfied that the Complainant owns a trademark registration for its ETAPESTRY trademark.

The Panel notes that the disputed domain name identically incorporates the Complainant's ETAPESTRY trademark in its entirety.

The addition of the Top-Level Domain “.co” in the disputed domain names is a standard registration requirement and as such is disregarded under the confusing similarity test under Policy, paragraph 4(a)(i). See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.11.

For these reasons, the Panel concludes that the disputed domain name is identical to the Complainant's trademark ETAPESTRY.

The first element of paragraph 4(a) of the Policy has been met.

B. Rights or Legitimate Interests

The Complainant states it has not authorized the Respondent to use the trademark ETAPESTRY and that before notice of the dispute, there is no evidence of the Respondent's use, or demonstrable preparation to use, the disputed domain name in good faith. The Panel does not see any contrary evidence from the record.

In the view of the Panel, the Complainant has succeeded in raising a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. For its part, the Respondent failed to provide any explanations as to any rights or legitimate interests. Therefore, the Panel finds that the Respondent does not have any rights or legitimate interests in the disputed domain name.

The second element of paragraph 4(a) of the Policy has been met.

C. Registered and Used in Bad Faith

In the view of the Panel, considering that the disputed domain name resolves to a website with links related to the Complainant's business field, *i.e.* fundraising, it is inconceivable that the Respondent could have registered the disputed domain name without knowledge of the Complainant's trademark. In the circumstances of this case, this is evidence of registration in bad faith.

The Complainant has shown that the disputed domain name has been only used to generate “click trough” revenue by posting links referring to the Complainant's business field. Moreover, the disputed domain name is confusingly similar to the domain name <etapestry.com> used by the Complainant. The Panel thus finds that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its websites by creating a likelihood of confusion as to the source, sponsorship or affiliation of its website in the sense of paragraph 4(b) (iv) of the Policy.

Furthermore, the Complainant has shown that the Respondent is offering the disputed domain name for sale for USD 799, which is likely in excess of out-of-pocket costs that may be directly related to the disputed domain name, which is evidence of bad faith in the sense of paragraph 4(b) (i) of the Policy. In this regard, noting the circumstances of this case, the Panel considers that the disputed domain name was registered due to its significance in connection with the Complainant's trademark, and that its value comes from its identity with the Complainant's trademark.

The Panel thus finds that the disputed domain name was 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, <etapestry.co>, be transferred to the Complainant.

/Andrea Mondini/

Andrea Mondini

Sole Panelist

Date: March 27, 2023