

ADMINISTRATIVE PANEL DECISION

Universal Services of America, LP d/b/a Allied Universal v. Contact Privacy Inc. Customer 12411053847 / Jacob Henders
Case No. D2022-0408

1. The Parties

The Complainant is Universal Services of America, LP d/b/a Allied Universal, United States of America (“United States”), represented by Cozen O’Connor, United States.

The Respondent is Contact Privacy Inc. Customer 12411053847, Canada / Jacob Henders, United States of America.

2. The Domain Name and Registrar

The disputed domain name <allieduniversaljobs.org> is registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 4, 2022. On February 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 7, 2022, 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 Complainant on February 8, 2022, 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 February 11, 2022.

The Center verified that the Complaint 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 February 14, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 6, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on March 7, 2022.

The Center appointed Brian J. Winterfeldt as the sole panelist in this matter on March 22, 2022. 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 Universal Services of America, LP, d/b/a Allied Universal (“Allied”), is a California limited partnership. Originally founded in Pittsburgh, Pennsylvania in 1957, Allied is an American provider of security systems and services, as well as other technological and professional services.

Complainant owns trademark registrations for the ALLIED UNIVERSAL mark (the “Mark”) and for marks containing the term ALLIED UNIVERSAL in the United States. Sample trademark registrations owned by Complainant include:

- ALLIED UNIVERSAL, United States Trademark Reg. No. 5,136,006, registered on February 7, 2017; and
- ALLIED UNIVERSAL EVENT SERVICES, United States Trademark Reg. No. 5,965,576, registered on January 21, 2020.

The disputed domain name was registered on September 10, 2021. Currently, <allieduniversaljobs.org> does not resolve to an active website.

5. Parties’ Contentions

A. Complainant

According to Complainant, the disputed domain name is identical or confusingly similar to Complainant’s ALLIED UNIVERSAL trademark in which Complainant has rights as demonstrated through its cited registrations. The ALLIED UNIVERSAL mark was adopted and has been continuously used in the United States since at least as early as 2016 in connection with security systems and services, as well as other technological and professional services. Complainant maintains its online presence through its main corporate website, “www.aus.com”, as well as its career and jobs website, “www.jobs.aus.com.”

Complainant argues that the disputed domain name fully incorporates the ALLIED UNIVERSAL mark and is confusingly similar to Complainant’s corporate domain names. Complainant argues that Respondent is attempting to make individuals believe the disputed domain name will be used in connection with services that are identical to those included in Complainant’s employment staffing services. Complainant argues that the disputed domain name is confusingly similar in regards to appearance, sound, and overall commercial impression to the ALLIED UNIVERSAL mark. Complainant also argues that the likelihood of confusion created by Respondent is worsened by the fact that Respondent added “jobs” to the disputed domain name in conjunction with Complainant’s registered ALLIED UNIVERSAL mark, because employment staffing services are synonymous with “jobs” and these services are directly covered in the registrations listed by Complainant in its Class 35 services. Complainant argues that the mere addition of a descriptor such as “jobs” does not serve to distinguish, for Policy purposes, the disputed domain name from Complainant’s Mark.

Complainant asserts that Respondent lacks any rights or legitimate interests in the disputed domain name. Complainant states that Respondent is not affiliated with Complainant, and that there is no evidence to suggest that Respondent has registered the disputed domain name to advance legitimate interests or for the *bona fide* offering of legitimate goods or services. Complainant argues that Respondent has anonymously registered the disputed domain name in an effort to evade the consequences of registering a domain name

for which it has no rights or legitimate interests. Complainant argues that previous Panels have found that the use of a privacy or proxy registration service to register a domain name may be used to draw adverse inferences. Complainant asserts that Respondent cannot provide any legitimate basis for its registration of the disputed domain name that wholly incorporates Complainant's Mark.

Complainant argues that Respondent both registered and is using the disputed domain name in bad faith. Complainant argues that Respondent's registration and passive holding of the disputed domain name was, and is, in bad faith in contravention of paragraphs 4(i)-(iv) of the Policy, which indicates circumstances that serve as evidence of bad faith. Complainant argues that Respondent registered the disputed domain name to trade off of Complainant's goodwill in its Mark and to confuse consumers into believing that Respondent's website is affiliated or associated with Complainant. Complainant also argues that Respondent's passive holding of the disputed domain name does not prevent a finding of bad faith; Complainant remains concerned that Respondent will add further infringing content to this website or will use this domain extension for email accounts at any time.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under paragraphs 5(f) and 14(a) of the Rules, the effect of a default by a respondent is that, in the absence of exceptional circumstances, the panel shall proceed to a decision on the basis of the complaint.

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

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

A respondent's default does not by itself satisfy a complainant's burden of proof and is not necessarily an admission that the complainant's allegations are true. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). Thus, even though Respondent has failed to address Complainant's contentions, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence. See, e.g., *The Knot, Inc. v. In Knot We Trust LTD*, WIPO Case No. [D2006-0340](#).

A. Identical or Confusingly Similar

A national or international trademark registration is *prima facie* evidence that the holder has the requisite rights in the registered mark for purposes of paragraph 4(a)(i) of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Complainant has provided evidence that it owns multiple trademark registrations for the ALLIED UNIVERSAL trademark or containing the term ALLIED UNIVERSAL as referenced above. Therefore, Complainant has established that it has rights in the ALLIED UNIVERSAL mark.

The remaining question under the first element of the Policy is whether the disputed domain name (typically disregarding the Top-Level Domain ("TLD") in which the domain name is registered) is identical or confusingly similar to Complainant's mark. It is well accepted that the first element functions primarily as a standing requirement and that the 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. This test typically involves a side-by-side comparison of the domain name and

the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. *Id.*

Here, the disputed domain name incorporates the entirety of the ALLIED UNIVERSAL mark, adding only the word “jobs,” denoting a career site, which does not prevent the ALLIED UNIVERSAL mark from being recognizable within the disputed domain name. [WIPO Overview 3.0](#), section 1.8.

Therefore, the Panel finds that Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its trademark rights and showing that the disputed domain name is confusingly similar to its ALLIED UNIVERSAL mark.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, Complainant must make at least a *prima facie* showing that Respondent possesses no rights or legitimate interests in the disputed domain name. See [WIPO Overview 3.0](#), section 2.1. Once Complainant makes such a *prima facie* showing, the burden of production shifts to Respondent, though the burden of proof always remains on Complainant. If Respondent fails to come forward with evidence showing rights or legitimate interests, Complainant will have sustained its burden under the second element of the UDRP.

Paragraph 4(c) of the Policy lists the ways that Respondent may demonstrate rights or legitimate interests in the disputed domain name:

- (i) before any notice 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) has been commonly known by the disputed domain name, even if it 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.

Here, Complainant has alleged that Respondent has no rights or legitimate interests in the disputed domain name. Respondent has failed to come forward with any evidence showing rights or legitimate interests. Respondent has not submitted any arguments or evidence to rebut Complainant’s contention that Respondent is not an assignee or licensee of Complainant and that Respondent has no other business relationship with Complainant. Complainant has contended that Respondent is not commonly known by the disputed domain name and that there is no evidence that Respondent has established trademark rights in the disputed domain name. Again, Respondent has not provided any evidence or arguments to demonstrate that it has such rights.

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

C. Registered and Used in Bad Faith

Bad faith is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark. Paragraph 4(b) of the Policy provides that any one of the following non-exclusive scenarios constitutes evidence of a respondent’s bad faith:

- (i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of

the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the 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 the respondent has engaged in a pattern of such conduct; or

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

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

Here, the disputed domain name contains the entirety of the ALLIED UNIVERSAL mark, with the addition of the word "jobs." Complainant is the largest security services company in North America, with more than 150,000 employees. Due to the well-known and online nature of the Allied brand, evidenced by multiple trademark registrations and corporate website, Respondent was undoubtedly aware of Complainant and the ALLIED UNIVERSAL mark when it registered the disputed domain name, which again wholly incorporates the ALLIED UNIVERSAL mark. Passive holding of a domain name does not prevent a finding of bad faith; Respondent's non-use of the disputed domain name for an active website still indicates bad faith in the registration and holding of the disputed domain name, which Complainant argues was purposeful to trade on the ALLIED UNIVERSAL mark and attract Internet users, potentially for phishing schemes in the future. Whatever the future intentions of Respondent, the totality of the circumstances here indicate bad faith by Respondent, based on the renown of Complainant's trademark, the lack of a response from Respondent, and the concealment of the registrant's identity.

This Panel therefore finds that Respondent acted in bad faith by its registration and use of the disputed domain name.

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, <allieduniversaljobs.org>, be transferred to Complainant.

/Brian J. Winterfeldt/

Brian J. Winterfeldt

Sole Panelist

Date: April 5, 2022