

ADMINISTRATIVE PANEL DECISION

Universal Services of America, LP d/b/a Allied Universal v. Privacy service provided by Withheld for Privacy ehf / Carolina Rodrigues, Fundacion Comercio Electronico
Case No. D2022-0789

1. The Parties

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

The Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 7, 2022. On March 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 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 the Complainant on March 8, 2022 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 March 10, 2022.

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 March 10, 2022. In accordance with the Rules, paragraph

5, the due date for Response was March 30, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 1, 2022.

The Center appointed William P. Knight as the sole panelist in this matter on April 8, 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

The Complainant is a United States corporation providing a range of services, including security, janitorial and payroll services, as well as related software products and online services.

The Complainant is the proprietor of the trademark ALLIED UNIVERSAL as a word registered in the United States as follows:

- U.S. Reg. No. 5,136,006 for the ALLIED UNIVERSAL mark, filed on May 6, 2016 and registered on February 7, 2017;
- U.S. Reg. No. 6,630,054 for the ALLIED UNIVERSAL mark, filed on August 6, 2020 and registered on January 25, 2022.

The Complainant also is the registered owner of trademarks prominently including the words ALLIED UNIVERSAL and device in the United States.

The disputed domain name <alliduniversal.com> was registered on December 17, 2021. As evidenced in the Complaint, the disputed domain name resolves to a parked page with pay-per-click links.

5. Parties' Contentions

A. Complainant

In accordance with paragraph 4(a) of the Policy, the Complainant asserts, *inter alia*, as follows:

- (i) that the disputed domain name is confusingly similar to the Complainant's trademark ALLIED UNIVERSAL;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name;
- (iii) that the disputed domain name has been registered and is being used in bad faith.

In respect of paragraph 4(a)(i), the Complainant provides supporting evidence that the ALLIED UNIVERSAL mark has been registered in the United States. The Complainant also provides evidence of use of the ALLIED UNIVERSAL mark on the Complainant's website, and reference to past UDRP decisions: *Universal Services of America, LP d/b/a Allied Universal v. Cybernet Systech Private Limited*; WIPO Case No. D2018-1544; *Universal Services of America, LP d/b/a Allied Universal v. Whois Agent, Whois Privacy Protection Service Inc. / George Washere*, WIPO Case No. D2017-0618; *Universal Services of America, LP d/b/a Allied Universal v. Shilei*, WIPO Case No. [D2017-0370](#).

The Complainant argues that the disputed domain name is confusingly similar to the Complainant's ALLIED UNIVERSAL trademark by virtue of the only difference being a missing letter "i" in "alliduniversal".

In support of paragraph 4(a)(ii), the Complainant contends that:

- (a) the Respondent has no, and has never had any, connection with the Complainant and is not licensed or authorized by the Complainant to use the disputed domain name;
- (b) because the Respondent anonymously registered the disputed domain name, and the website is not currently offering legitimate services, the Respondent (as an individual, business, or other organization) cannot claim to be commonly known by the disputed domain name or similar names related thereto.

The Complainant argues that a negative inference should be drawn in this regard from the Respondent's use of a privacy service to mask its or her identity.

In support of paragraph 4(a)(iii), the Complainant asserts that bad faith is evidenced by the Respondent's use of the disputed domain name with the intention of trading off the Complainant's goodwill in its ALLIED UNIVERSAL trademark and to confuse consumers into believing that the Respondent's website is affiliated or associated with the Complainant when that is not the case. The Complainant says that the Respondent, by using the domain name, is intentionally attempting to attract, for commercial gain, Internet users to its website under the disputed domain name and, by creating a likelihood of confusion with the complainant's mark, misrepresenting the source, sponsorship, affiliation, or endorsement of its website or of a product or service on the site, in terms of Paragraphs 4(b)(iv) of the Policy

The Complainant says that the use being made of the disputed domain name is a "passive use", citing WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), paragraph 3.3 and *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#), and *Polaroid Corporation v. Jay Strommen*, WIPO Case No. [D2005-1005](#).

Finally, the Complainant shows that the Respondent has engaged in a pattern of registrations of domain names of famous trademark owners in order to prevent the trademark owners from reflecting their marks in corresponding domain names, asserting that there are over 80 determinations under the UDRP finding against the Respondent, including *Skyscanner Limited v. Registration Private, Domains By Proxy, LLC/Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-0018](#); *Serena & Lily, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2021-0568](#); *Calvin Klein Trademark Trust and Calvin Klein, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-3045](#); *LEGO Juris A/S v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-2834](#); *Starbucks Corporation v. Registration Private, Domains by Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-1991](#); *Patagonia, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-1409](#); *Philip Morris USA Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-1109](#); *Société Air France v. Registration Private, Domains By Proxy, LLC, DomainsByProxy.com / Carolina Rodrigues*, WIPO Case No. [D2019-0578](#); *Ford Motor Company v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2018-2787](#).

The Complainant seeks the remedy of transfer of the disputed domain name to the Complainant.

B. Respondent

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

6. Discussion and Findings

The onus is on the Complainant to prove each of the three elements set out in paragraph 4(a) of the Policy.

However, the Respondent has had ample opportunity to respond to the allegations of the Complainant and has not done so. The Respondent cannot be in a better position by failing to respond than if it had chosen to take advantage of the opportunities afforded to it, expressly, by paragraph 5 of the Rules.

Paragraph 15(a) of the Rules instructs the Panel to decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable. In the absence of any response from the Respondent, the onus upon the Complainant will be satisfied if a conclusion which is capable of being drawn from the evidence provided by the Complainant is not contradicted by the Respondent.

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has established its trademark rights in its mark ALLIED UNIVERSAL by virtue of its United States trademark registrations, as has been repeatedly found by prior UDRP panels. To those decisions cited by the Complainant in this regard can be added *Universal Services of America, LP d/b/a Allied Universal v. Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / Domain Administrator, Site Matrix LLC* WIPO Case No. [D2020-0345](#), and *Universal Services of America, LP d/b/a Allied Universal v. This Domain May be for Sale at https://www.networksolutions.com, New Ventures Services, Corp* WIPO Case No. [D2019-0834](#), as well as *Universal Services of America, LP d/b/a Allied Universal v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundación Comercio Electrónico* WIPO Case No. [D2019-0156](#).

The determination of confusing similarity is a factual one which must be satisfied by the Panel making a side-by-side comparison of the Complainant's trademark and the disputed domain name to assess whether the mark is recognizable within the disputed domain name. See [WIPO Overview 3.0](#), section 1.7.

Placed side-by-side, the confusing similarity between the Complainant's trademark and the disputed domain name is self-evident. The disputed domain name incorporates the Complaint's trademark with the exception of the first "i" in the Complainant's trademark being omitted from the dispute domain name. Such conduct is referred to as "typosquatting" and does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.9.

The Panel therefore finds that the disputed domain name is confusingly similar to the Complainant's trademark.

B. Rights or Legitimate Interests

The Respondent clearly has no rights or legitimate interests in the disputed domain name. The Respondent has made no attempt to clarify its selection of the disputed domain name, notwithstanding ample opportunity to do so. Furthermore, the Respondent is not commonly known by the disputed domain name, and the fact that the disputed domain name has only ever been used as a parking page directing Internet users to different suppliers of goods and services competing with the products of the Complainant, and so receive pay-per-click' revenues, does not amount to a *bona fide* offering of goods or service or a legitimate noncommercial or fair use in these circumstances; see [WIPO Overview 3.0](#), section 2.9.

The Complainant has put forward a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, which has not been rebutted by the Respondent; see [WIPO Overview 2.1](#).

The Panel therefore finds that the Respondent does not have rights or legitimate interests in the disputed domain name for the purposes of the Policy.

C. Registered and Used in Bad Faith

There can be no doubt that the Respondent registered the disputed domain name for the purpose of taking illegitimate advantage of the Complainant's trademark rights. The evidence also establishes the Respondent

must have been aware of the Complainant's rights at the time of registration; noting also the adverse decision against the Respondent in *Universal Services of America, LP d/b/a Allied Universal v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundación Comercio Electrónico*, WIPO Case No. [D2019-0156](#). Clearly, those rights are the reason the Respondent chose the disputed domain name.

The Panel finds that the Complainant's "passive use" analysis is not appropriate in these circumstances – the cited authorities are not needed in this case. The disputed domain name is used to host a parking page with links to further pages, some of which relate to products and services, in particular software and database services concerned with employment, covered by the Complainant's trademark registrations, which suggests the Respondent is intentionally attempting to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademark.

This landing page includes the following statement:

"This webpage was generated by the domain owner using Sedo Domain Parking. Disclaimer: Sedo maintains no relationship with third party advertisers. Reference to any specific service or trademark is not controlled by Sedo nor does it constitute or imply its association, endorsement or recommendation."

As noted by [WIPO Overview 3.0](#), section 3.5, such third-party generated material "automatically" appearing on the website associated with a domain name, particularly such material that generates pay-per-click links, can form the basis for a finding of registration and use in bad faith. UDRP panels have held that a respondent cannot disclaim responsibility for content appearing on the website associated with its domain name (nor would such links *ipso facto* vest the respondent with rights or legitimate interests).

Even if such links were generated by a third party such as a registrar or auction platform (or an affiliate), or if the respondent itself did not directly profit from such material, this would not by itself prevent a finding of bad faith. A respondent cannot disclaim responsibility for links appearing on the website associated with its domain name unless the respondent does something to mitigate the risk of confusion.

Moreover, the nature of the disputed domain name, being a typo of the Complainant's trademark, affirms a finding of bad faith. See [WIPO Overview 3.0](#), section 3.2.1.

Also, it is apparent that the Respondent is a serial cybersquatter that registers domain names comprising well-known trademarks, for no proper purpose but to profit from such conduct. To the decisions cited by the Complainant could be added *International Business Machines Corporation v. Domains By Proxy, LCC / Carolina Rodrigues, Fundación Comercio Electrónico*, WIPO Case No. [D2018-2657](#), *John Middleton Co. v. Registration Private, Domains By Proxy, LLC, DomainsByProxy.com / Carolina Rodrigues, Fundación Comercio Electrónico*, WIPO Case No. [D2018-2600](#), *The Commissioners for HM Revenue and Customs v. Domains By Proxy, LLC DomainsByProxy.com / Carolina Rodrigues, Fundación Comercio Electrónico*, WIPO Case No. [D2018-2348](#), *The British United Provident Association Limited v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundación Comercio Electrónico*, WIPO Case No. D2018-1755. Accordingly, the Respondent's pattern of past cybersquatting suggests bad faith in the instant case.

The Panel therefore finds that the Respondent has registered and uses the disputed domain name in bad faith within the meaning of the Policy.

Therefore, the Panel finds that also the third element under the Policy set forth by paragraph 4(a)(iii) is fulfilled and that, accordingly, the Complainant has satisfied all of the three requirements of paragraph 4(a) 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 the disputed domain name <alliduniversal.com> be transferred to the Complainant.

/William P. Knight/

William P. Knight

Sole Panelist

Date: April 22, 2022