

ADMINISTRATIVE PANEL DECISION

Gainsight, Inc. v. Privacy Inc. Customer 12411196676 / John Walker
Case No. D2022-0929

1. The Parties

The Complainant is Gainsight, Inc., United States of America (“United States” or “U.S.”), represented by Kirkland & Ellis, United States.

The Respondent is Privacy Inc. Customer 12411196676, Canada / John Walker, United States.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 16, 2022. On March 16, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 17, 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 18, 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 23, 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 30, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 19, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 27, 2022.

The Center appointed William F. Hamilton as the sole panelist in this matter on May 3, 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 creates customer relationship software that, among other things, reports and measures revenue optimization, customer experience, and customer data. The Complainant is based in San Francisco, California, United States, and employs over 1,000 people.

The Complainant uses the domain name <gainsight.com> as the address for the website it operates to promote its business.

The Complainant owns U.S. Trademark Registration No. 4,849,817 for GAINSIGHT (the "Mark").

5. Parties' Contentions

A. Complainant

The Complainant asserts the disputed domain name is confusingly similar to the Mark because the disputed domain name is composed by merely adding the word "remote" as a suffix to the Mark.

The Complainant asserts that the Complainant never authorized the Respondent to use the disputed domain name, that the Respondent is not generally known by the disputed domain name, and that the Respondent has never engaged in any *bona fide* commercial activity in connection with the disputed domain name.

The Complainant asserts that the Respondent registered and used the disputed domain name in bad faith as part of a fraudulent scheme. The Complainant asserts that the Respondent is impersonating an employee of the Complainant and sending e-mails, text messages, and instant messages to unsuspecting persons who erroneously believe they are being offered employment with the Complainant. The Complainant asserts the disputed domain name was registered and is being used to facilitate this fraudulent scheme which is designed to trick unsuspecting job seekers into providing personally identifying information.

It does not appear that the disputed domain name ever resolved to an active website.

B. Respondent

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

6. Discussion and Findings

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

- (i) the disputed domain name is identical or confusingly similar to a 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 was registered and is being used in bad faith.

A. Identical or Confusingly Similar

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

The disputed domain name is composed by adding the word “remote” to the Complainant’s Mark. A domain name which wholly incorporates a complainant’s registered mark is sufficient to establish confusing similarity for the purposes of the Policy when, as here, the Mark is clearly recognizable within the disputed domain name notwithstanding the addition of an additional term. Here the visual impact of the Mark in the disputed domain name is apparent and obvious. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8 (“where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographic, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element”); *Regeneron Pharmaceuticals, Inc. v. Registration Private, Domains by Proxy, LLC / Regeneron Careers*, WIPO Case No. [D2017-0013](#); *Bombas LLC v. Domain Administrator, See PrivacyGuardian.org /Maryellen J Dillard, Maryellen Dillard*, WIPO Case No. [D2021-0609](#); *Magnum Piercing, Inc. v. The Mudjacks and Garwood S. Wilson, Sr*, WIPO Case No. [D2000-1525](#).

The generic Top-Level Domain (“gTLD”) of the disputed domain name, in this case “.com”, may be disregarded for the purposes of assessment under the first element, as it is viewed as a standard registration requirement. [WIPO Overview 3.0](#), section 1.11.1; *Monster Energy Company, a Delaware Corporation v. J.H.M. den Ouden*, WIPO Case No. [D2016-1759](#); *International Business Machines Corporation v. Sledge, Inc. / Frank Sledge*, WIPO Case No. [D2014-0581](#).

The Complainant has met its burden under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant has specifically disavowed providing the Respondent with permission to use the disputed domain name or the Mark. The Respondent is not affiliated with the Complainant in any way and does not have any business relationship with the Complainant. There is no evidence that the Respondent has conducted any *bona fide* business under the disputed domain name or is commonly known by the disputed domain name. *Compagnie de Saint Gobain v. Com-Union Corp.*, WIPO Case No. [D2000-0020](#). There is no evidence that the Respondent has ever utilized the disputed domain name in connection with an active website.

The Complainant has thus established a *prima facie* case in its favor, which shifts the burden of production on this point to the Respondent. The Respondent, however, has failed to come forth with any evidence showing any rights or legitimate interests in the disputed domain name.

Furthermore, the nature of the disputed domain name, which highly resembles the Mark, carries a risk of implied affiliation. *Compagnie Générale des Etablissements Michelin v. PrivacyDotLink Customer 1197652 / Alex Hovorost*, WIPO Case No. [D2016-1923](#) (legitimate use unlikely given the resemblance of the disputed domain name with the widely known trademark of the complainant); see [WIPO Overview 3.0](#), section 2.5.1.

It also appears that the disputed domain name resolves to an inactive website whose sole purpose is being used as part of a scheme whose purpose is the collection of personally identifying information from unsuspecting persons. The use of a domain name for fraudulent activity can never confer rights or legitimate interests upon a respondent. See [WIPO Overview 3.0](#), section 2.13.

The facts and circumstances presented to the Panel demonstrate that the Respondent does not have any rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

Under paragraph 4(b) of the Policy, bad faith may be established by any one of the following scenarios:

(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 on-line 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.

The Panel finds the disputed domain name was registered and is being used in bad faith.

A simple Internet search, normally undertaken before registering a domain name, would have disclosed the Complainant's Mark. Common sense compels the conclusion that the Respondent was quite aware of the Complainant's Mark when registering the disputed domain name. The addition of the word "remote" to the Mark is compelling evidence that the Respondent was aware of the Complainant's rights and interests when registering the disputed domain name. Even if one were to accept the unbelievable proposition that the Respondent was unaware of the Mark, willful blindness is no excuse and does not avoid a finding of bad faith registration and use. *Instagram LLC v. Contact Privacy Inc. / Sercan Lider*, WIPO Case No. [D2019-0419](#).

Noting the composition of the disputed domain name, it is difficult to conceive of any use that the Respondent might make of the disputed domain name without the Complainant's consent that would not involve bad faith. *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); *Verner Panton Design v. Fontana di Luce Corp*, WIPO Case No. [D2012-1909](#) (where the reputation of a complainant in a given mark is significant and the mark bears strong similarities to the disputed domain name, the likelihood of confusion is such that bad faith may be inferred); *DPDgroup International Services GmbH & Co. KG v. Wise One, Wilson TECH*, WIPO Case No. [D2021-0109](#); *Monster Energy Company v. PrivacyDotLink Customer 116709 / Ferdinand Nikolaus Kronschnabl*, WIPO Case No. [D2016-1335](#).

Finally, the Annexes to the Complainant present a compelling documentation that the purpose and use of the disputed domain name is to allow the creation of deceptive email addresses and other communication methods used to phish personally identifying information from persons who have been tricked into believing that they are seeking employment with the Complainant. *American Society of Hematology, Inc. v. Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / Pranaey H*, WIPO Case No. [D2021-1381](#); *Tetra Laval Holdings & Finance S.A. v. Himali Hewage*, WIPO Case No. [D2020-0472](#) (configuration of MX record discloses the possibility that the disputed domain name may be aimed at phishing activities). *BDSRCO, Inc. v. Ronald Hamilton*, WIPO Case No. [D2021-0495](#) (phishing scheme to collect personal data, at best for deceptive marketing purposes and at worst for fraud or identity theft); *Prudential Assurance Company Limited v. Prudential Securities Limited*, WIPO Case No. [D2009-1561](#) (emails sent impersonating complainant's agents).

The Complainant has met its burden under paragraph 4(a)(iii) 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, <gainsightremote.com> be transferred to the Complainant.

/William F. Hamilton/

William F. Hamilton

Sole Panelist

Date: May 17, 2022