

ADMINISTRATIVE PANEL DECISION

Western Governors University v. Proxy Protection LLC / Mohit Mendiratta
Case No. D2022-1301

1. The Parties

The Complainant is Western Governors University, United States of America (“U.S.”), represented by Phillips Winchester, U.S.

The Respondent is Proxy Protection LLC, U.S. / Mohit Mendiratta, India.

2. The Domain Name and Registrar

The disputed domain name <wguexams.com> is registered with DreamHost, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 11, 2022. On April 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 20, 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 April 21, 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 amendment to the Complaint on April 26, 2022.

The Center verified that the Complaint together with the amendment to the 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 April 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 17, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 19, 2022.

The Center appointed Marilena Comanescu as the sole panelist in this matter on May 23, 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 non-profit Utah corporation, accredited by The Northwest Commission on Colleges and Universities, providing online educational opportunities to over 100,000 current students in fifty U.S. states. The Complainant specializes in competency-based education, offering bachelor's and master's degrees in health, business, IT, education and provides publications, teaching, tutoring, student support and educational services to students across North America.

The Complainant claims it has used the WGU mark since at least as early as 1998 alone or in connection with other terms for a broad range of goods and services, in particular educational services, educational support and printed publications.

The Complainant holds trademark registrations for WGU mark, such as the U.S. Registration No. 4069558, filed on December 10, 2010 and registered on December 13, 2011, covering services in class 41.

The Complainant owns and uses the domain name <wgu.edu> since 1997.

The disputed domain name was registered on June 3, 2021, and, according to the evidence provided in the Complaint, it was used in connection with a website advertising and promoting services of taking exams and completing assignments for WGU students, also displaying WGU trademark, logo and images of computer screens with WGU tests. On the website under the disputed domain name, the Respondent refers to the Complainant's courses by name and course number.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to its WGU trademark, the Respondent has no rights or legitimate interests in the disputed domain name, and the Respondent registered and is using the disputed domain name in bad faith, particularly in breach of the U.S. education law and violates the Complainant's Code of Student Conduct and Academic Authenticity Policies. The Complainant requests the transfer of the disputed domain name to it.

B. Respondent

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

6. Discussion and Findings

In view of the absence of a Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent. Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the following circumstances are met:

- (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 the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

A. Identical or Confusingly Similar

The Panel finds that the Complainant holds rights in the WGU trademark.

The disputed domain name incorporates the trademark WGU with one additional term, “exams”. However, such addition does not prevent a finding of confusing similarity as the Complainant’s trademark is clearly recognizable within the disputed domain name.

Numerous UDRP panels have considered that the addition of other terms (whether descriptive, pejorative, meaningless or otherwise) to trademarks in a domain name does not prevent a finding of confusing similarity. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

Further, it is well established in decisions under the UDRP that the generic Top-Level Domain (“gTLD”) (e.g., “.com”, “.site”, “.info”, “.shop”) is typically disregarded for the purposes of consideration of confusing similarity between a trademark and a domain name. See section 1.11 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the disputed domain name is confusingly similar to the trademark WGU, pursuant to the Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

The Complainant asserts that the Respondent does not hold any trademark rights, license, or authorization whatsoever to use the mark WGU, that the Respondent is not commonly known by the disputed domain name and that the Respondent has not used the disputed domain name in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods or services.

Under the Policy, “where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element”. See section 2.1 of the [WIPO Overview 3.0](#).

Although properly notified with regard to the present procedure, the Respondent failed to provide a Response to invoke any circumstances which could demonstrate any rights or legitimate interests in the disputed domain name.

In fact, the Respondent has used the disputed domain name in connection with a website providing unlawful services, conflicting to those of the Complainant, in an attempt to attract Internet users to its website by taking unfair advantage of the composition of the disputed domain name..

For these reasons, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, pursuant to the Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The Complainant holds trademark rights for WGU since at least 2011.

The disputed domain name was created in 2021 and incorporates the Complainant’s mark together with a dictionary term closely related to the Complainant’s activity, namely, “exams”.

For the above, the Panel finds that the disputed domain name was registered in bad faith, knowing the Complainant and targeting its trademark.

At the time of filing the Complaint, the disputed domain name resolved to a website displaying the Complainant's WGU trademark and logo and promoting services in conflict with those of the Complainant, namely for assisting the Complainant's students to cheat the exams and the assignments.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "to attract, for commercial gain, Internet users to [the respondent's] 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" is evidence of registration and use in bad faith.

Given that the disputed domain name incorporates the Complainant's trademark and the website operated under the disputed domain name provides services related to the Complainant's activities, displays the Complainant's trademark and logo, indeed in this Panel's view, the Respondent intended to attract Internet users accessing the website corresponding to the disputed domain name, by creating a likelihood of confusion arising from the composition of the disputed domain name and the website, also noting Internet users may be confused and believe that the website is held, controlled by, or somehow affiliated or related to the Complainant, for its commercial gain.

Further, the Respondent registered the disputed domain name under a privacy service, provided what appears to be inaccurate contact information in the Whois and did not reply to the Complainant's contentions in order to put forward any arguments in its favor. Having in view the other circumstances of this case, such facts constitute further evidence of bad faith behavior.

For all the above reasons, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith, pursuant to the Policy, paragraph 4(a)(iii).

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 <wguexams.com> be transferred to the Complainant.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: June 3, 2022