

ADMINISTRATIVE PANEL DECISION

Transbidasoa, S.A. v. Perfect Privacy, LLC / Dineshkumar G
Case No. D2022-1437

1. The Parties

Complainant is Transbidasoa, S.A., Spain, represented by Garrigues, Spain.

Respondent is Perfect Privacy, LLC, United States of America (“United States”) / Dineshkumar G, India.

2. The Domain Name and Registrar

The disputed domain name <grupobidasoa.com> is registered with Pink Elephant Domains, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 21, 2022. On April 22, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 30, 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 May 2, 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 May 6, 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 Respondent of the Complaint, and the proceedings commenced on May 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 31, 2022. The Center received an informal email communication from Respondent on May 19, 2022.

On May 23, 2022, Complainant requested the suspension of the proceeding to explore settlement options. On May 24, 2022, the Center sent the Notification of Suspension to Complainant and Respondent, informing them that the proceeding was suspended until June 23, 2022. On June 22, 2022,

Complainant requested the reinstatement of the proceeding. The Center sent the notification of reinstatement of the proceeding on June 22, 2022, setting a response date of June 30, 2022. Respondent did not submit a formal response to the Complainant. On July 1, 2022, the Center informed the Parties of the commencement of panel appointment process.

The Center appointed Lorelei Ritchie as the sole panelist in this matter on July 5, 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 is a transportation consortium based in Spain. Complainant has been offering transportation services under the mark GRUPO BIDASOA for years prior to Respondent's registration of the disputed domain name. Complainant owns various trademark registrations for GRUPO BIDASOA, and similar marks. These include, among others, Spanish Registration No. 2878699 (registered January 12, 2010).

The disputed domain name was registered on September 22, 2021. Respondent has used the URL associated with the disputed domain name to resolve to a website that offers information and discussions about sexual and pornographic material, and inviting users to click on links for further information. Complainant has not authorized any activities by Respondent, nor any use of its trademarks thereby.

5. Parties' Contentions

A. Complainant

Complainant contends that (i) the disputed domain name is identical or confusingly similar to Complainant's trademarks, (ii) Respondent has no rights or legitimate interests in the disputed domain name; and (iii) Respondent registered and is using the disputed domain name in bad faith.

Specifically, Complainant contends that it owns the GRUPO BIDASOA mark. Complainant contends that Respondent has incorporated the mark GRUPO BIDASOA in full into the disputed domain name. Complainant contends that Respondent lacks rights or legitimate interests in the disputed domain name. Rather, Complainant contends that Respondent has acted in bad faith in registering and using the disputed domain name, when Respondent clearly knew of Complainant's rights. In this regard, Complainant alleges that Respondent has also impersonated Complainant on social media, indicating Respondent's familiarity with Complainant and its marks.

B. Respondent

The Center received an email communication from Respondent on May 19, 2022 stating it was ready to transfer the disputed domain name. Respondent did not submit a formal response to the Complainant, and did not address Complainant's contentions in this proceeding.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel must first determine whether the disputed domain name <grupobidasoa.com> is identical or confusingly similar to a trademark or service mark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy. The Panel finds that it is.

The disputed domain name incorporates in full Complainant's GRUPO BIDASOA mark, and merely adds the generic Top-Level Domain ("gTLD"), ".com". Typically, a gTLD may be disregarded for purposes of considering this first element. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.11.1.

The Panel finds that the disputed domain name is identical or confusingly similar to a trademark in which Complainant has rights in accordance with paragraph (4)(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Panel next considers whether Complainant has shown that Respondent has no "rights or legitimate interest" as must be proven to succeed in a UDRP dispute. Paragraph 4(c) of the Policy gives examples that might show rights or legitimate interests in a domain name. These examples include: (i) use of the domain name "in connection with a *bona fide* offering of goods or services;" (ii) demonstration that respondent has been "commonly known by the domain name;" or (iii) "legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

No evidence has been presented to the Panel that might support a claim of Respondent's rights or legitimate interests in the disputed domain name, and Respondent has no license from, or other affiliation with, Complainant.

In addition, the Panel finds that the disputed domain name carries a risk of implied affiliation with the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

Therefore, the Panel finds that Complainant has provided sufficient evidence for a *prima facie* case of Respondent's lack of "rights or legitimate interests" in accordance with paragraph 4(a)(ii) of the Policy, which Respondent has not rebutted.

C. Registered and Used in Bad Faith

There are several ways that a complainant can demonstrate that a domain name was registered and used in bad faith. For example, paragraph 4(b)(iv) of the Policy states that bad faith can be shown where "by using the domain name [respondent has] intentionally attempted to attract, for commercial gain, Internet users to [respondent's] web site 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 [respondent's] website or location or of a product or service on [the] web site or location." As noted in Section 4 of this Panel's decision, Respondent has used the URL associated with the disputed domain name to resolve to a website that offers information and discussions about sexual and pornographic material, and inviting users to click on links for further information. Respondent is thus trading on the goodwill of Complainant's trademarks to attract Internet users, presumably for Respondent's own commercial gain.

Therefore, the Panel finds that Respondent registered and used the disputed domain name in bad faith for purposes of 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 <grupobidasoa.com> be transferred to the Complainant.

/Lorelei Ritchie/

Lorelei Ritchie

Sole Panelist

Date: July 19, 2022