

ADMINISTRATIVE PANEL DECISION

Blackbaud, Inc. v. Privacy Protection / Domain, Administrator
Case No. D2022-1517

1. The Parties

The Complainant is Blackbaud, Inc., United States of America (“United States”), represented by Soteria LLC, United States.

The Respondent is Privacy Protection, United States / Domain, Administrator, Nigeria.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 27, 2022. On April 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 28, 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 May 5, 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 May 5, 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 May 10, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 30, 2022. The Respondent did not submit any Response. Accordingly, the Center notified the Respondent’s default on June 7, 2022.

The Center appointed Kiyoshi Tsuru as the sole panelist in this matter on June 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

The Complainant is a company founded in the United States that provides cloud computing services in the areas of fundraising, education management, tuition management, and non-profit accounting, among others.

The Complainant is the owner of the following trademark registrations:

Trademark	No. Registration	Class	Jurisdiction	Date of Registration
BLACKBAUD	5280412	9	United States	September 5, 2017
BLACKBAUD	5280411	42	United States	September 5, 2017

The Complainant is the owner of the domain name <blackbaud.com>, which was registered on October 24, 1994.

The disputed domain name was registered on March 30, 2022, and resolves to a parked website containing links to websites that offer similar products and services to the ones offered by the Complainant.

5. Parties' Contentions

A. Complainant

I. Identical or Confusingly Similar

That the disputed domain name incorporates entirely the BLACKBAUD trademark, with the addition of the term "tuition", plus the generic Top-Level Domain ("gTLD") ".com"

II. Rights or Legitimate Interests

That the Respondent is neither affiliated to nor authorized by the Complainant to register or use the trademark BLACKBAUD.

That the Respondent has neither used the disputed domain name nor provided any proof of a *bona fide* offering of goods and services by means thereof.

That the disputed domain name resolves to a website that displays three "related links" related to advertisements.

That the Respondent is possibly generating income for hosting the abovementioned advertisements.

That the Respondent is identical to the respondent in *Blackbaud, Inc. v. Domain Administrator* WIPO Case No. [D2022-0477](#).

That the disputed domain name is not associated with the Complainant, who has not received any authorization to use the BLACKBAUD trademark in a domain name.

III. Registered and Used in Bad Faith

That the disputed domain name is infringing on the Complaint's registered trademark.

That the Complainant provides services to educational institutions, and that therefore the disputed domain name is harmful to the Complainant's brand.

That the registration of the disputed domain name is considered harmful and disruptive to the Complainant's business, as Internet users can be misled into thinking that the disputed domain name belongs to the Complainant.

That the Complainant is globally recognized and has been previously targeted by cybersquatters.

That the trademark BLACKBAUD is a unique word and that, therefore, it was registered for the purpose of selling it for a profit.

B. Respondent

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

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, the Complainant is required to prove that each of the three following elements is satisfied:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(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.

Given the Respondent's failure to submit a formal Response, the Panel may decide this proceeding based on the Complainant's undisputed factual allegations, in accordance with paragraphs 5(f), 14(a), and 15(a) of the Rules, (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#)).

A. Identical or Confusingly Similar

The disputed domain name is confusingly similar to the Complainant's trademark, as it incorporates it entirely, with the addition of the term "tuition".

Generally, previous panels appointed under the Policy have found that the inclusion of additional terms in a disputed domain name does not prevent a finding of confusing similarity under the first element (see sections 1.7 and 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). In the present case, the disputed domain name incorporates the term "tuition", which is related to the Complainant, who offers school management and tuition management products and services. Regardless, the incorporation of said term does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark.

The addition of the gTLD ".com" to the disputed domain name constitutes a technical requirement of the Domain Name System. Therefore, it has no legal significance in the present case (see *CARACOLITO S SAS v. Nelson Brown, OXM.CO*, WIPO Case No. [D2020-0268](#), and *Société Air France v. Registration Private, Domains By Proxy, LLC, DomainsByProxy.com / Carolina Rodrigues* WIPO Case No. [D2019-0578](#)).

Therefore, the first element of the Policy has been met.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets forth the following examples as circumstances where a respondent may have rights or legitimate interests in the disputed domain name:

- (i) before any notice to the respondent of the dispute, the use by the respondent of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, even if it did not acquire trademark or service mark rights; or
- (iii) the respondent is making a 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.

The Complainant has asserted that there is no relationship between the Complainant and the Respondent and that it has not granted any authorization to the Respondent to use its trademark BLACKBAUD (see *Beyoncé Knowles v. Sonny Ahuja*, WIPO Case No. [D2010-1431](#); and *Six Continents Hotels, Inc. v. IQ Management Corporation*, WIPO Case No. [D2004-0272](#)). The Respondent did not contest this allegation.

The case file contains no evidence that demonstrates that the Respondent has used or has made demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services (see *Valentino S.p.A. v. Qiu Yufeng, Li Lianye*, WIPO Case No. [D2016-1747](#); and *Rolex Watch U.S.A., Inc. v. NCSO*, WIPO Case No. [D2010-0948](#)).

The disputed domain name resolves to a parked website comprising pay-per-click (“PPC”) links related to the Complainant’s business, such as, such as “School Tuition Management Software”, “School Fundraising Software”, and “School Parent Portal Software”. Paragraph 4(c) of the Policy establishes that this cannot constitute a *bona fide* offering, because said links capitalize on the reputation and goodwill of the Complainant’s trademark, or otherwise mislead Internet users into thinking that there is some sort of relationship or association between the Complainant and the Respondent (see section 2.9 of the [WIPO Overview 3.0](#); see also *ABSA Bank Limited v. Domain Administrator, See PrivacyGuardian.org / Sidoti Parmer*, WIPO Case No. [D2020-2992](#); *Archer-Daniels-Midland Company v. Wang De Bing*, WIPO Case No. [D2017-0363](#); *Fontem Holdings 4, B.V. v. J- B-, Limestar Inc.*, WIPO Case No. [D2016-0344](#); *Barceló Corporación Empresarial, S.A. v. Hello Domain*, WIPO Case No. [D2007-1380](#); and *Merck Sharp & Dohme Corp. v. Domain Administrator, PrivacyGuardian.org / George Ring, DN Capital Inc.*, WIPO Case No. [D2017-0302](#)).

The Complainant has made a *prima facie* case showing that the Respondent lacks rights to or legitimate interests in the disputed domain name. Therefore, the burden of production to demonstrate rights to or legitimate interests in the domain name falls on the Respondent, who in this case has failed to ascertain them (see sections 2.1 of the [WIPO Overview 3.0](#), see also *Harpo, Inc. and Oprah’s Farm, LLC v. Robert McDaniel*, WIPO Case No. [D2013-0585](#), and *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#)).

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Bad faith under the Policy is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark. According to paragraph 4(b) of the Policy, the following circumstances, in particular but without limitation, shall be evidence of registration and use in bad faith:

(i) circumstances indicating that the respondent has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration 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 your 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 its website or location.

The Complainant has provided evidence showing that it holds trademark rights for BLACKBAUD. The date of registration of the trademark precedes the date of registration of the disputed domain name. Additionally, the added term "tuition" alludes to the academic industry in which the Complainant operates, inferring Respondent's awareness of and intent to target the Complainant.

Moreover, as stated in the discussion of the preceding factor of the Policy, the disputed domain name resolves to a parked website comprising PPC links related to the Complainant's business. Therefore, this Panel considers that the Respondent is trying to capitalize on the reputation and goodwill of the Complainant's trademark by misleading Internet users, for commercial gain, to the disputed domain name by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the disputed domain name, which constitutes bad faith under paragraph 4(b)(iv) of the Policy (see section 3.1.4 of the Policy, see also *Fontem Holdings 4, B.V. v. J- B-, Limestar Inc.*, WIPO Case No. [D2016-0344](#); *Archer-Daniels-Midland Company v. Wang De Bing*, WIPO Case No. [D2017-0363](#), and *Merck Sharp & Dohme Corp. v. Domain Administrator, PrivacyGuardian.org / George Ring, DN Capital Inc.*, WIPO Case No. [D2017-0302](#)).

Another indicator of bad faith is the pattern of cybersquatting in which the Respondent has been involved. In *Blackbaud, Inc. v. Domain Administrator* WIPO Case No. [D2022-0477](#), the Respondent had also been a respondent in a case involving a trademark of the Complainant. In that case, the Panelist stated the following: "In addition, the Panel is aware of UDRP decisions, such as *Blackbaud, Inc. v. Jenkins Alumona, Sugarcane Internet Nigeria Limited*, WIPO Case No. [D2022-0104](#), which clearly suggest that there is a pattern of bad faith by which the Complainant and its specific mark (used in connection with universities) is being targeted. The Respondent's email address in this case indicates a connection to the respondent in the abovementioned case. The Respondent appears to be what can only be described as a cybersquatter engaged in a pattern of conduct". This pattern further supports a finding of bad faith according to article 4(b)(ii) of the Policy (see [WIPO Overview 3.0](#) section 3.1.2).

In light of the above, the Complainant has fulfilled the requirements of paragraph 4(b) 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, <blackbaudtuition.com> be transferred to the Complainant.

/Kiyoshi Tsuru/

Kiyoshi Tsuru

Sole Panelist

Date: July 6, 2022