

ADMINISTRATIVE PANEL DECISION

Twin Health Inc. v. Privacy Service provided by Withheld for Privacy ehf /
Name Redacted

Case No. D2022-1586

1. The Parties

Complainant is Twin Health Inc., United States of America, represented by John Berryhill, Ph.d., Esq., United States of America.

Respondent is Privacy Service provided by Withheld for Privacy ehf, Iceland / Name Redacted.¹

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 2, 2022. On May 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 2, 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 3, 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 the same day.

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”).

¹ Respondent appears to have used the name of an employee of the Complainant when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, [WIPO Case No. D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on May 9, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 29, 2022. Respondent did not submit any response. Accordingly, the Center notified the Parties of Respondent's default on June 1, 2022.

The Center appointed Ingrīda Kariņa-Bērziņa as the sole panelist in this matter on June 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

Complainant is an American health-care technology startup company founded in 2018 operating in the emerging field of "digital twin technology". It operates under the TWIN HEALTH brand, in which it asserts unregistered rights. Complainant operates its primary business website at <twinhealth.com> and operates a "Twin Health" app.

The disputed domain name was registered on February 15, 2022. It does not currently resolve to an active website. The record reflects that it previously resolved to a website replicating Complainant's own employment recruiting page.

5. Parties' Contentions

A. Complainant

Complainant's contentions may be summarized as follows:

Under the first element, Complainant asserts unregistered trademark rights predating the registration of the disputed domain name on the following basis: Complainant has operated its primary business website at <twinhealth.com> since 2020. Complainant also operates a "Twin Health" app that has been available through the major app platforms since 2021. Complainant's TWIN HEALTH mark has attracted significant investment and attention in the field of diabetes research. The mark has been in continual use. The disputed domain is identical to Complainant's mark. The Top-Level Domain ("TLD") ".careers" does not dispel confusion, since Respondent is using the disputed domain name to divert and victimize job seekers looking for Complainant. Complainant filed to register the TWIN HEALTH mark in the United States on January 24, 2020, but its application has been opposed. The parties are currently in settlement discussions.

Under the second element, Complainant states that Complainant has no relationship with Respondent and has not authorized registration of the disputed domain name. Respondent has registered the disputed domain name for the purpose of passing off as Complainant to obtain job-seekers' personal data and to defraud them of funds.

Under the third element, Complainant states that the disputed domain name was registered well after Complainant had established its reputation in the field of "digital twin" technology. The disputed domain name was registered shortly after it was publicly announced that Complainant had attracted USD 140 million in investment funding. Respondent has intentionally adopted the disputed domain name to pass itself off as Complainant in online recruiting platforms. Respondent established a website that copied Complainant's employment recruiting page. Complainant has learned that persons who have contacted Respondent through the counterfeit page have been requested to provide personal data and have been solicited for fraudulent application fees. Respondent has provided false contact information when registering the disputed domain name.

Complainant requests transfer of the disputed domain name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the UDRP requires Complainant to make out all three of the following:

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

(ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

A. Identical or Confusingly Similar

As a threshold matter, the Panel must decide whether Complainant has standing to bring a UDRP action based on unregistered trademark rights.

The Panel notes that a pending trademark application would not by itself establish trademark rights within the meaning of UDRP paragraph 4(a)(i). WIPO Overview of WIPO Panel Views on selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.1.4.

Based on the evidence presented, the Panel finds that Complainant has established its unregistered rights in the TWIN HEALTH mark. It has provided evidence that its mark has, through use, become a distinctive identifier, which consumers associate with Complainant's goods and services. The Panel finds that the mark does not consist solely of descriptive terms. The Panel finds that Complainant has provided evidence of use of this mark on its website, on apps and in publications that predates the registration of the disputed domain name and that support its assertion of acquired distinctiveness of an unregistered mark. See, for example, *Uitgeverij Crux v. W. Frederic Isler*, WIPO Case No. [D2000-0575](#). See also [WIPO Overview 3.0](#), section 1.3.

Consistent with prior UDRP panel practice, the Panel finds that Respondent has deliberately targeted Complainant's mark, and this fact supports a finding that Complainant's mark has achieved significance as a source identifier. See [WIPO Overview 3.0](#), section 1.3.

Complainant thereby satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. In comparing the disputed domain name to Complainant's mark, the Panel finds that they are identical. It is the consensus view of UDRP panels that, where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark. [WIPO Overview 3.0](#), section 1.7.

Accordingly, the Panel finds that Complainant has established the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

The Panel finds that the evidence submitted by Complainant establishes a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain name. Respondent is not authorized by

Complainant and has no rights in the TWIN HEALTH mark. Considering the evidence presented that Respondent has engaged in efforts to target Complainant's potential employees by using the disputed domain name to mislead Internet users, the Panel finds that the disputed domain name targets Complainant's TWIN HEALTH mark. Such use cannot confer rights or legitimate interests.

Pursuant to [WIPO Overview 3.0](#), section 2.1, and cases thereunder, where Complainant makes out a *prima facie* case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

Respondent has not provided any rebuttal of Complainant's *prima facie* case and has therefore not proved rights or legitimate interests in the disputed domain name. There is no evidence that Respondent is commonly known by the disputed domain name, or that there are any circumstances or activities that would establish Respondent's rights therein. Complainant has brought forward evidence that Respondent has engaged in a deceptive scheme using the disputed domain name. Respondent has not refuted this evidence. Such conduct precludes a finding of rights or legitimate interests on the part of Respondent. See [WIPO Overview 3.0](#), section 2.13.1.

Accordingly, the Panel finds that Complainant has established the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Complainant has demonstrated Respondent's bad faith registration of the disputed domain name. Complainant provides evidence that its rights in the TWIN HEALTH mark predates the registration of the disputed domain name. The disputed domain name is identical to Complainant's mark and to Complainant's own domain name. Under such circumstances, the Panel finds that the registration of the disputed domain name that is identical or confusingly similar to a distinctive trademark by an unaffiliated entity can by itself create a presumption of bad faith on the part of Respondent. See [WIPO Overview 3.0](#), section 3.1.4. Respondent has not provided any information that would rebut this presumption.

The Panel also finds that Complainant has demonstrated Respondent's bad faith use of the disputed domain name. The evidence provided by Complainant indicates that Respondent was perpetuating a deceptive scheme by using the disputed domain name to mimic Complainant's website and fraudulently collect personal data from persons seeking employment with Complainant. Respondent then targeted these persons with malicious links and files. Consistent with UDRP panel practice, such conduct manifestly demonstrates bad faith. See [WIPO Overview 3.0](#), section 3.4.

The Panel therefore finds that Complainant has established the third element under 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 that the disputed domain name <twinhealth.careers> be transferred to Complainant.

/Ingrīda Kariņa-Bērziņa/

Ingrīda Kariņa-Bērziņa

Sole Panelist

Date: June 16, 2022