

ADMINISTRATIVE PANEL DECISION

LinkedIn Corporation v. Michael Moore
Case No. D2022-3287

1. The Parties

Complainant is LinkedIn Corporation, United States of America (“United States”), represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States.

Respondent is Michael Moore, United States.

2. The Domain Name and Registrar

The disputed domain name <receivables-linkedin.com> is registered with Wild West Domains, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 5, 2022. On September 5, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 6, 2022, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 Respondent of the Complaint, and the proceedings commenced on September 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 27, 2022. Respondent did not submit any formal response.

On September 13, 2022, the Center received an informal communication to which the Center acknowledged receipt. The Center notified the Commencement of Panel Appointment Process on September 28, 2022.

The Center appointed Frederick M. Abbott as the sole panelist in this matter on September 29, 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 the owner of registrations for the word, and word and design, service mark LINKEDIN on the Principal Register of the United States Patent and Trademark Office (“USPTO”), including word registration number 3074241, registration dated March 28, 2006, in international class (“IC”) 35, covering online business networking services; word and design registration number 3074242, registration dated March 28, 2006, in IC 35, covering online business networking services, and; word and design registration number 3971644, registration dated May 31, 2011, in IC 45, covering social introduction and social networking services, and licensing of computer software and intellectual property. Complainant has provided evidence of a substantial number of additional registrations for the LINKEDIN trademark in the United States and other countries.

Complainant is a global provider of business networking and related services, with more than 19,000 full-time employees and 36 offices operating in cities around the world. Complainant maintains a substantial online presence, including through a commercial website at “www.linkedin.com”. Complainant was acquired by Microsoft in 2016. It continues to operate as a distinct corporate entity.

According to the Registrar’s verification, Respondent is registrant of the disputed domain name. According to that verification, the creation date of the disputed domain name was May 30, 2022. There is no indication that any party other than Respondent has owned or controlled the disputed domain name since its creation.

There is no evidence that Respondent used the disputed domain name in connection with an active website. Complainant has provided evidence that Respondent used the disputed domain name in connection with securing or attempting to secure payment by at least one of Complainant’s customers of an invoice falsely purporting to originate with Complainant, but with banking details not associated with Complainant. Such email deceptively used the name of an actual employee of Complainant. Complainant’s security team stated in an internal email of June 17, 2022:¹

“If this is a phishing attempt, it seems extremely sophisticated, and I have additional concerns of how the fraudsters were able to copy the invoice and reach out via what looks like verified [Complainant] employee, but maybe this is a known issue that your team is aware of?”

Complainant has provided evidence in the form of an MXToolbox Supertool print-out of September 4, 2022 that Respondent associated the disputed domain name with MX records that enable the receipt and transmission of email.²

5. Parties’ Contentions

A. Complainant

Complainant alleges that it owns rights in the trademark LINKEDIN, and that the disputed domain name is confusingly similar to that trademark.

Complainant contends that Respondent lacks rights or legitimate interests in the disputed domain name because: (1) Complainant has never assigned, granted, licensed, sold, transferred or in any way authorized Respondent to register or use its trademark in any manner; (2) Respondent’s use of the disputed domain name in an attempt to collect payment for a fraudulent invoice does not constitute a *bona fide* offering of goods or services; (3) Respondent’s failure to use the disputed domain name in connection with an active website does not establish rights or legitimate interests; (4) Respondent has not been commonly known by

¹ Complainant’s internal email correspondence indicates that “the invoice was paid” by the customer, but it is not clear whether this refers to payment on an alternate genuine invoice, or the fraudulent invoice. Whether payment was actually made against the fraudulent invoice is not material to this proceeding.

² The aforesaid MX records are associated with google.com servers.

the disputed domain name, nor has it acquired trademark or service mark rights in the disputed domain name; (5) Respondent's use of the disputed domain name in connection with a business email compromise phishing scam including by impersonating an employee of Complainant cannot establish rights or legitimate interests, and; (6) Respondent is not making a legitimate noncommercial or fair use of the disputed domain name.

Complainant argues that Respondent registered and is using the disputed domain name in bad faith because: (1) mere registration of the disputed domain name identical or confusingly similar to Complainant's well-known trademark can by itself create a presumption of bad faith; (2) Respondent's use of the disputed domain name in connection with a business email compromise phishing scam by impersonating an employee of Complainant in an attempt to collect payment for a fraudulent invoice constitutes bad faith by disrupting the business of a competitor and by attempting to attract for commercial gain Internet users by creating a likelihood of confusion with Complainant as to source, sponsorship, affiliation, or endorsement; (3) the creation of MX records by Respondent is evidence of bad faith because it gives rise to the strong possibility that Respondent intends to use the disputed domain name as part of a fraudulent phishing scam; (4) Respondent must have known of Complainant's trademark and business when it registered and used the disputed domain name, suggesting opportunistic bad faith; (5) Respondent's actions also evidence bad faith under elements considered with respect to bad faith passive holding, including the well-known character of Complainant's trademark, and absence of a plausible good faith use.

B. Respondent

Respondent did not reply to Complainant's contentions. On September 13, 2022, the Center received an informal communication from Respondent asserting lack of awareness regarding "whatever is going on".

6. Discussion and Findings

The registration agreement between Respondent and the Registrar subjects Respondent to dispute settlement under the Policy. The Policy requires that domain name registrants submit to a mandatory administrative proceeding conducted by an approved dispute resolution service provider, one of which is the Center, regarding allegations of abusive domain name registration and use (Policy, paragraph 4(a)).

It is essential to Policy proceedings that fundamental due process requirements be met. Such requirements include that a respondent have notice of proceedings that may substantially affect its rights. The Policy and the Rules establish procedures intended to ensure that respondents are given adequate notice of proceedings commenced against them and a reasonable opportunity to respond (see, e.g., Rules, paragraph 2(a)).

The Center formally notified the Complaint to Respondent at the email and physical address provided in its record of registration. Respondent provided an informal email reply to the Center. The Center took those steps prescribed by the Policy and the Rules to provide notice to Respondent, and those steps are presumed to satisfy notice requirements.

Paragraph 4(a) of the Policy sets forth three elements that must be established by a complainant to merit a finding that a respondent has engaged in abusive domain name registration and use, and to obtain relief. These elements are that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which complainant has rights;
- (ii) respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Each of the aforesaid three elements must be proved by a complainant to warrant relief.

A. Identical or Confusingly Similar

Complainant has provided evidence of rights in the trademark LINKEDIN, including by registration at the USPTO and by use in commerce. See Factual Background *supra*. Respondent has not challenged Complainant's assertion of rights. The Panel determines that Complainant owns rights in the trademark LINKEDIN.

The disputed domain name directly and fully incorporates Complainant's LINKEDIN trademark. This is sufficient to establish confusing similarity between the trademark and the disputed domain name under the Policy. The addition of the term "receivables-" in the disputed domain name does not prevent a finding of confusing similarity. The Panel determines that the disputed domain name is confusingly similar to Complainant's trademark.

Complainant has established that it owns rights in the trademark LINKEDIN and that the disputed domain name is confusingly similar to that trademark.

B. Rights or Legitimate Interests

Complainant's allegations to support Respondent's lack of rights or legitimate interests in the disputed domain name is outlined above, and the Panel finds that Complainant has made a *prima facie* showing that Respondent lacks rights or legitimate interests in the disputed domain name.

Respondent has not replied to the Complaint and has not attempted to rebut Complainant's *prima facie* showing of lack of rights or legitimate interests.

There is no evidence that Respondent used (or prepared to use) the disputed domain name in connection with a *bona fide* offering of goods or services. There is no evidence that Respondent has been commonly known by the disputed domain name, or that it has established trademark rights in LINKEDIN. There is no evidence that Respondent used the disputed domain names in connection with an active website. The nonuse of the disputed domain name in connection with an active website does not establish rights or legitimate interests. Respondent has not attempted to justify non-use of the disputed domain name in connection with an active website for some legitimate noncommercial or fair use purpose.

Respondent has used the disputed domain name as the sender domain in connection with a sophisticated business email compromise phishing scheme. Respondent falsely identified itself as an actual employee of Complainant in correspondence with Complainant's customer, transmitted what appeared to be a genuine invoice from Complainant to that customer, and provided payment instructions different from those of Complainant, presumably associated with Respondent. The use by Respondent of the disputed domain name in connection with carrying out a scheme to defraud does not establish rights or legitimate interests in the disputed domain name.

Respondent's use or nonuse of the disputed domain name does not otherwise manifest rights or legitimate interests.

The Panel determines that Complainant has established that Respondent lacks rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

In order to prevail under the Policy, Complainant must demonstrate that the disputed domain name "has been registered and is being used in bad faith" (Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy states that "for the purposes of paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith". These include that: "[...] (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 [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."

Respondent registered the disputed domain name long after Complainant established rights in the LINKEDIN trademark, and at a time when such trademark had become well-known among users of business networking services. Respondent thereafter used the disputed domain name in connection with a scheme directed toward defrauding customers of Complainant, falsely adopting the identity of an employee of Complainant. It is clear that Respondent was aware of Complainant and its trademark when it registered and used the disputed domain name.

Respondent used the disputed domain name as the sender domain in an email adopting the identity of an employee of Complainant, with other details intended to appear as originating with Complainant, including an invoice designed to appear as originating with Complainant (but with different payment details). Complainant's internal security team identified Respondent's scheme as "sophisticated", in part because the disputed domain name used terms substantially similar to those used by Complainant as part of its business operations. Respondent's conduct was deliberate. Respondent planned to take advantage of Complainant and its customer(s).

Respondent registered and is using the disputed domain name that is confusingly similar to Complainant's trademark for commercial gain by attracting Internet users to Respondent's email address as an online location through a false association with Complainant. Such use by Respondent disrupts Complainant's business in various ways, including by interfering in its relationships with its customers, by defrauding Complainant of payment against legitimate invoices, and by requiring Complainant to maintain active security monitoring and remedial systems to prevent against email-based abuse.

The Panel determines that Complainant has established that Respondent registered and is using the disputed domain name in bad faith within the meaning 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, <receivables-linkedin.com>, be transferred to Complainant.

/Frederick M. Abbott/

Frederick M. Abbott

Sole Panelist

Date: October 13, 2022