

ADMINISTRATIVE PANEL DECISION

Johnson & Johnson v. “Marriott Hotel”, Delhi
Case No. D2022-3403

1. The Parties

The Complainant is Johnson & Johnson, United States of America (“United States”), represented by Fross Zelnick Lehrman & Zissu, PC, United States.

The Respondent is “Marriott Hotel”, Delhi, India.

2. The Domain Name and Registrar

The disputed domain name <jjohnson-johnson.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 13, 2022. On September 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 14, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 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 amended Complaint on September 26, 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 September 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 18, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 20, 2022.

The Center appointed Kateryna Oliinyk as the sole panelist in this matter on October 24, 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 an American multinational corporation which has been manufacturing and selling consumer products around the world for more than 130 years. The Complainant's group of companies includes the consumer health company, the medical devices and diagnostics company, biologics company and the pharmaceuticals company. The Complainant has more than 250 operating companies in 60 countries around the world, employing approximately 114,000 people.

The Complainant owns and uses many domain names, including <johnsonjohnson.com>, created on March 17, 1997, and <jnj.com>, created on November 1, 1993, which redirect visitors to the official websites of the Complainant.

The Complainant has provided evidence that it is the registered owner of numerous trademarks worldwide relating to its JOHNSON & JOHNSON trademark, including the following trademark registrations, just to name the few:

- United States Trademark Registration No. 678538 for JOHNSON & JOHNSON, registered on May 12, 1959, for goods of International Class 21;
- United States Trademark Registration No. 918682 for JOHNSON & JOHNSON, registered on August 17, 1971, for goods of International Class 03;
- United States Trademark Registration No. 918687 for JOHNSON & JOHNSON, registered on August 17, 1971, for goods of International Class 03;
- United States Trademark Registration No. 918688 for JOHNSON & JOHNSON, registered on August 17, 1971, for goods of International Class 03;
- United States Trademark Registration No. 926472 for JOHNSON & JOHNSON, registered on January 4, 1972, for goods of International Class 16;
- United States Trademark Registration No. 1083499 for JOHNSON & JOHNSON, registered on January 24, 1978, for goods of International Class 16.

The disputed domain name <jjohnson-johnson.com> was created on August 2, 2021, and does not resolve to an active website. Evidence submitted by the Complainant shows that the Respondent was using the disputed domain name in connection with email scam in the name of the Complainant, through an email address connected to the disputed domain name (“[...]@jjohnson-johnson.com”) offering a position with the Complainant and requiring that they submit personal information and payment to obtain a work visa.

5. Parties' Contentions

A. Complainant

Identical or Confusingly Similar

The Complainant contends that the disputed domain name is identical to its JOHNSON & JOHNSON trademark, notably because the disputed domain name incorporates the Complainant's trademark in its entirety, merely adding an additional “J” and replacing the ampersand with a hyphen. Despite the typosquatting, the Complainant's JOHNSON & JOHNSON trademark remains the most prominent feature of the disputed domain name and there is the risk of confusion, by association, between the Complainant's trademark and the disputed domain name.

The Complainant further contends that the generic Top-Level Domain (“gTLD”) “.com” extension need not be taken into consideration when adjudging confusing similarity.

Rights or Legitimate Interests

The Complainant claims that the Respondent does not have any rights or legitimate interests in respect of the disputed domain name.

The Complainant contends that the Respondent has no connection or affiliation with the Complainant and has not received any license or consent, express or implied, to use the Complainant’s JOHNSON & JOHNSON trademark in domain names or in any other manner.

The Complainant also contends that the disputed domain name does not resolve to an active website and has been used to send fraudulent e-mail messages in order to confuse various job applicants into believing that they had been hired at Johnson & Johnson in Singapore, requiring that they submit personal information and payment to obtain a work visa. Such use demonstrates neither a *bona fide* offering of goods or services nor a legitimate interest.

In these circumstances, the Complainant contends that there is no credible evidence of the Respondent’s use of, or demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services.

Registered and Used in Bad Faith

The Complainant submits that the Respondent has registered the disputed domain name with full knowledge of the Complainant’s JOHNSON & JOHNSON trademark as the disputed domain name incorporates it in its entirety. Given the fact that the Respondent used the disputed domain name to impersonate one of the Complainant’s employees makes clear that the Respondent was aware of the Complainant and its rights in the JOHNSON & JOHNSON trademark.

The Complainant contends that the Respondent’s exploitation of the Complainant’s goodwill for financial gain by perpetrating a fraud on the Complainant demonstrates the Respondent’s bad faith.

The Complainant submits that the Respondent’s submission of false Whois data is also proof of its bad faith registration of the disputed domain name.

The Complainant claims that the disputed domain name was registered primarily for the purpose of using it to target a third party by way of fraudulent email scam.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: “[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.”

Considering that the Respondent did not reply to the Complainant’s contentions, in order to determine whether the Complainant has met its burden as stated in paragraph 4(a) of the Policy, the Panel bases its Decision on the statements and documents submitted and in accordance with the Policy and the Rules. Under paragraph 14(b) of the Rules, where a Party does not comply with any provision of the Rules, the Panel “shall draw such inferences therefrom as it considers appropriate”.

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following: (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and (iii) that the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Ownership of a nationally or regionally registered trademark serves as a *prima facie* evidence that the Complainant has trademark rights for the purposes of standing to file this Complaint. See section 1.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). The Complainant submitted evidence that the JOHNSON & JOHNSON trademark enjoys protection under national trademark registrations. Thus, the Panel finds that the Complainant’s rights in the JOHNSON & JOHNSON trademark have been established pursuant to the first element of the Policy.

The only remaining question under the first element of the Policy is whether the disputed domain name is identical or confusingly similar to the Complainant’s JOHNSON & JOHNSON trademark.

It is well established that domain names which consist of common, obvious or intentional misspellings of trademarks are considered to be confusingly similar for the purposes of the first element of the Policy. [WIPO Overview 3.0](#), section 1.9 (“Examples of such typos include (i) adjacent keyboard letters, (ii) substitution of similar-appearing characters ... (iii) the use of different letters that appear similar in different fonts, (iv) the use of non-Latin internationalized or accented characters, (v) the inversion of letters and numbers, or (vi) the addition or interspersation of other terms or numbers”). See *e.g. Edmunds.com, Inc. v. Digi Real Estate Foundation*, WIPO Case No. [D2006-1043](#) (“This is clearly a ‘typosquatting’ case where the disputed domain name is a slight misspelling of a registered trademark to divert Internet traffic. In fact, the [...] domain name comprises the Complainant’s trademark [...] with a single misspelling of an element of the mark: a double consonant ‘S’ at the end”).

The disputed domain name in this Complaint is a misspelling of the Complainant’s JOHNSON & JOHNSON trademark, merely adding an additional “J” and replacing the ampersand with a hyphen. Accordingly, the Panel finds that the Complainant’s JOHNSON & JOHNSON trademark is clearly recognizable within the disputed domain name and the disputed domain name clearly constitutes an attempt at typosquatting, by the Respondent.

Under section 1.7 of the [WIPO Overview 3.0](#), while each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.

Finally, for the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the gTLD, see section 1.11.1 of the [WIPO Overview 3.0](#).

It is the view of the Panel that it is readily apparent that the Complainant’s trademark remains recognizable in the disputed domain name.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the JOHNSON & JOHNSON trademark in which the Complainant has rights.

The first element of paragraph 4(a) of the Policy is therefore satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make at least a *prima facie* showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, *e.g.*, *Malayan*

Banking Berhad v. Beauty, Success & Truth International, WIPO Case No. [D2008-1393](#). Once a complainant makes such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

Based on the Complainant's contentions, the Respondent is not a licensee of, or otherwise affiliated with, the Complainant, and has not been authorized by the Complainant to use its JOHNSON & JOHNSON trademark.

The Complainant further contends that the Respondent is not commonly known by the disputed domain name and has not made any *bona fide* use – neither commercial nor noncommercial, of the same.

Based on the case records, the Panel finds that there is no evidence that the Respondent has been commonly known by the disputed domain name, and there is no similarity or association between the name of the Respondent and the disputed domain name, which could demonstrate rights or legitimate interests of the Respondent. See, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones TheDotCafe*, WIPO Case No. [D2008-0642](#). Furthermore, the Respondent appears to have used a false name in its registrant information.

According to the records of the case, the disputed domain name has been used in an attempted fraudulent email scheme designed to be deceptive and confusing and an impersonation by the Respondent of the Complainant.

Considering the nature of the disputed domain name, Internet users may think that the disputed domain name and/or any email address derived from the disputed domain name would constitute a valid way to contact the Complainant. The Panel finds that the subtle misspelling of the Complainant's mark is intended to impersonate the Complainant, as there is a risk that Internet users will not notice the difference between such misspelling and the Complainant's mark. Thus, the disputed domain name carries a risk of implied affiliation (see section 2.5.1 of the [WIPO Overview 3.0](#)).

In the absence of evidence to the contrary from the Respondent, the Panel accepts the evidence provided by the Complainant as true. As documented by the Complainant, the Respondent was using the disputed domain name to send fraudulent emails, purporting to work within the Complainant's company. The Panel views that this is neither a *bona fide* offering nor a legitimate noncommercial or fair use within the meaning of the Policy. See section 2.13.1 of the [WIPO Overview 3.0](#). See also *Demco, Inc. v. Adminprivateregcontact a/k/a Demco USA*, WIPO Case No. [D2011-1516](#) (No legitimate interest found when the Respondent used at least one email address linked to the disputed domain name in order to impersonate the Complainant); *Graybar Services Inc. v. Graybar Elec, Grayberinc Lawrenge*, WIPO Case No. [D2009-1017](#) (use of the disputed domain name to "create false emails pretending that they are genuine emails coming from the Complainant and one of its senior executives . . . to order goods from the Complainant's suppliers using the documents created for the purported transactions to attempt to have the Complainant pay for the goods so that they could be received by the Respondent free of charge" established no rights or legitimate interest in the domain name).

Basically, previous UDRP panels have categorically held that the use of a domain name for illegal activity (e.g., phishing, impersonation/passing off, identity theft and other types of fraud) can never confer rights or legitimate interests on a respondent (section 2.13 of the [WIPO Overview 3.0](#)).

By not submitting a Response, the Respondent has failed to invoke any circumstances which could demonstrate any rights or legitimate interests in the disputed domain name. Under such circumstances, the Panel draws adverse inferences from this failure, where appropriate, in accordance with the Rules, paragraph 14(b), and the Panel finds that the Respondent has failed to rebut the Complainant's *prima facie* case.

The second element of paragraph 4(a) of the Policy is therefore satisfied.

C. Registered and Used in Bad Faith

The Panel has established that Complainant's trademark has gained a high degree of recognition through its use.

The Complainant's registration and use of the JOHNSON & JOHNSON trademark clearly predates the date at which the Respondent registered the disputed domain name. Given the distinctiveness and well-known status of the Complainant's trademark, it is reasonable to conclude that the Respondent has registered the disputed domain name with full knowledge of the Complainant's JOHNSON & JOHNSON trademark.

Previous panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous trademark can create a presumption of bad faith registration. [WIPO Overview 3.0](#), section 3.1.4; *LEGO Juris A/S v. Aamir Abdul Wahid, Spiro Line Media, supra*, WIPO Case No. [D2019-0245](#); *Facebook Inc. v. te5gfh gtfghbfh, supra*. WIPO Case No. [D2018-2433](#).

Furthermore, the disputed domain name has been used in an attempted fraudulent email scheme designed to be deceptive and confusing and an impersonation by the Respondent of the Complainant.

Thus, the circumstances in this case leave no doubt about the fact that the Respondent was fully aware of the Complainant's rights in the distinctive and well-known JOHNSON & JOHNSON trademark when registering the disputed domain name and that the latter clearly is directed thereto. Moreover, using the disputed domain name for scam activities by sending fraudulent email to an unsuspecting user is an obvious case of registration and use in bad faith.

The use of a domain name for *per se* illegitimate activity such as sending impersonating emails is manifestly considered bad faith.

In this sense, section 3.4 of the [WIPO Overview 3.0](#) confirms that "Panels have held that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution. [...] Many such cases involve the respondent's use of the domain name to send deceptive emails, e.g., to obtain sensitive or confidential personal information from prospective job applicants, or to solicit payment of fraudulent invoices by the complainant's actual or prospective customers" (in this respect see, for example, *Sony Corporation v. WhoisGuard Protected, WhoisGuard, Inc. / David Grant*, WIPO Case No. [D2020-3162](#); *Haas Food Equipment GmbH v. Usman ABD, Usmandel*, WIPO Case No. [D2015-0285](#); or *BJ's Wholesale Club v. Lisa Katz, Domain Protection LLC / Domain Hostmaster, Customer ID: 64382986619850 Whois Privacy Services Pty*, WIPO Case No. [D2015-1601](#)).

The Respondent's provision of what appears to be a false identity and false contact information is also proof of its bad faith registration of the disputed domain name. See *Chung v. Individual*, WIPO Case No. [D2005-1068](#) (hiding identity is evidence of bad faith); *Forte Communications, Inc. v. Service for Life*, WIPO Case No. [D2004-0613](#) (finding bad faith where "Respondent has purposefully used false information in registering the Domain Name to conceal Respondent's identity and to make it difficult to locate Respondent for purposes of lawfully pursuing the Domain Name. Respondent has taken deliberate steps to conceal their true identity.").

Based on these findings, the Panel finds that the Respondent was aware of the Complainant's trademark JOHNSON & JOHNSON and the Complainant's rights in its mark at the time of registration of the disputed domain name and that the Respondent registered and uses the disputed domain name in bad faith under the Policy. [WIPO Overview 3.0](#), sections 3.1.4 (creating confusion with a famous trademark and use for *per se* illegitimate activity such as phishing), 3.2.1 (providing a false contact name), and 3.2.2 (famous mark a respondent cannot credibly claim not to have known). See *Facebook, Inc. v. Cetinje s.r.o.*, WIPO Case No. [D2014-1070](#).

For the reasons above, the Panel views that the Respondent's conduct amounts to bad faith registration and use of the disputed domain name in accordance with 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 <jjohnson-johnson.com> be transferred to the Complainant.

/Kateryna Oliinyk/

Kateryna Oliinyk

Sole Panelist

Date: November 22, 2022