

ADMINISTRATIVE PANEL DECISION

Government Employees Insurance Company v. Owa Emmanuel Case No. D2022-3535

1. The Parties

The Complainant is Government Employees Insurance Company, United States of America (“U.S.”), represented by Burns & Levinson LLP, U.S.

The Respondent is Owa Emmanuel, Nigeria.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 23, 2022. On September 26, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. Also on September 26, 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 (Privacy Service Provided by Withheld for Privacy ehf) and contact information in the Complaint.

The Center sent an email communication to the Complainant on September 28, 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 amendment to the Complaint on September 28, 2022.

The Center verified that the Complaint together with the amendment to 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 the Respondent of the Complaint, and the proceedings commenced on September 30, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 20, 2022. Aside from informal communications received on October 2, 2022, October 14, 2022 (two) and October 23, 2022, the Respondent did not reply to

the Complainant's contentions. Accordingly, the Center notified the Commencement of Panel Appointment Process on October 25, 2022.

The Center appointed Tuukka Airaksinen as the sole panelist in this matter on November 1, 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 insurance provider who has provided its insurance services throughout the United States using the trademark GEICO since 1948. The Complainant's trademark GEICO has been registered in the United States under No. 0763274 since January 14, 1964.

The disputed domain name was registered on April 8, 2022, and resolves to an error page.

5. Parties' Contentions

A. Complainant

The disputed domain name incorporates the Complainant's trademark in its entirety and the inclusion of the generic or descriptive element "investment" does not remove the similarity of the disputed domain name to the Complainant's trademark.

The Complainant has not authorized the Respondent to use the Complainant's trademark in any form, nor does the Respondent offer any legitimate services on the website to which the disputed domain name resolves. The Respondent cannot establish rights or legitimate interests in the disputed domain name.

The Respondent must have been aware of the Complainant when registering the disputed domain name. The Complainant's trademark is one of the most recognizable insurance brands in the United States market. The Respondent's current passive holding of the disputed domain name does not prevent the finding of bad faith, particularly because the registration of the disputed domain name occurred long after the registration of the Complainant's trademark. The Respondent also continued the bad faith use of the disputed domain name after the Complainant had sent a demand letter to the Respondent.

B. Respondent

The Respondent did not substantially reply to the Complainant's contentions. The Respondent did send two emails, on October 14, 2022 and on October 23, 2022, saying that he has tried to transfer the disputed domain name, but it is locked. However, the Complainant did not agree to suspend the case pending settlement discussions, so the case proceeded to decision.

6. Discussion and Findings

In order to obtain the transfer of a domain name, a complainant must prove the three elements of paragraph 4(a) of the Policy, regardless of whether the respondent files a response to the complaint or not. The first element is that the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights. The second element a complainant must prove is that the respondent has no rights or legitimate interests in respect of the domain name. The third element a complainant must establish is that the domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires that the Complainant establish that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. Consequently, the Complainant must prove that it has rights to a trademark, and that the disputed domain name is identical or confusingly similar to this trademark.

According to section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "[t]he applicable Top Level Domain ('TLD') in a domain name (e.g., '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test".

Furthermore, "where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements". See section 1.8 of the [WIPO Overview 3.0](#).

The disputed domain name is confusingly similar to the Complainant's trademark as it includes the Complainant's trademark entirely combined with the term "investment". This does not prevent confusing similarity between the Complainant's trademark and the disputed domain name.

This means that the disputed domain name is confusingly similar with the Complainant's trademark and hence the first element of the Policy has been fulfilled.

B. Rights or Legitimate Interests

Paragraph 4(a)(ii) of the Policy requires that the Complainant establish that the Respondent has no rights or legitimate interests to the disputed domain name.

It is widely accepted among UDRP panels that once a complainant has made a *prima facie* showing indicating the absence of the respondent's rights or legitimate interests in a disputed domain name the burden of production shifts to the respondent to come forward with evidence of such rights or legitimate interests. If the respondent fails to do so, the complainant is deemed to have satisfied the second element of the Policy. See, e.g., *Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#), and section 2.1 of the [WIPO Overview 3.0](#).

The Complainant has credibly submitted that the Respondent is neither affiliated with the Complainant in any way nor has it been authorized by the Complainant to use and register the disputed domain name, that the Respondent has no rights or legitimate interests in the disputed domain name, and that the Respondent has not made and is not making a legitimate noncommercial or fair use of the disputed domain name and is not commonly known by the disputed domain name in accordance with paragraph 4(c)(ii) of the Policy.

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

Accordingly, the Panel finds that the Complainant has made a *prima facie* case that has not been rebutted by the Respondent. Considering the Panel's findings below, the Panel finds that there are no other circumstances that provide the Respondent with any rights or legitimate interests in the disputed domain name. Therefore, the Panel finds that the second element of the Policy is fulfilled.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the Complainant establish that the disputed domain names have been registered and are being used in bad faith. Paragraph 4(b) of the Policy provides that 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:

“(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 [the respondent’s] 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 or 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.”

The Panel agrees that the Complainant’s trademark is a widely known trademark in the field of insurances. Hence the Respondent must have been aware of the Complainant and its trademark when registering the disputed domain name. See section 3.1.4 of the [WIPO Overview 3.0](#).

UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or well-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

The disputed domain name resolves to an error page. Accordingly, the disputed domain name is not in active use, see e.g., *Accenture Global Services Limited v. Domain eRegistration*, WIPO Case No. [D2018-1994](#).

This, however, does not prevent the finding of bad faith under the doctrine of passive holding. See section 3.3 of [WIPO Overview 3.0](#).

Considering that the Panel has found that the Complainant’s trademark is well known, that the disputed domain name is confusingly similar to it, the Respondent has not substantially responded to the Complaint and also ignored the pre-complaint demand letter, the Respondent has used a privacy protection service to conceal its identity, there are no obvious good faith or legitimate uses to which the disputed domain name may be put, the Panel considers, on balance, that the disputed domain name has been registered and used in bad faith.

Therefore, the Panel finds that the third element of the Policy is fulfilled.

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, <geicoinvestment.com> be transferred to the Complainant.

/Tuukka Airaksinen/

Tuukka Airaksinen

Sole Panelist

Date: November 15, 2022