

ADMINISTRATIVE PANEL DECISION

Rangeview Library District dba Anythink v. Vikki Martland
Case No. D2022-4757

1. The Parties

The Complainant is Rangeview Library District DbA Anythink, United States of America (“United States”), represented by Greenberg Traurig, LLP, United States.

The Respondent is Vikki Martland, Canada.

2. The Domain Name and Registrar

The disputed domain name <anythnklibraries.org> (the “Domain Name”) 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 December 12, 2022. On December 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 20, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint (Registration Private Domains By Proxy, LLC). The Center sent an email communication to the Complainant on December 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 January 4, 2023. The Center received an informal communication from Respondent on January 10, 2023. The Center sent to the parties an Identification of Respondent communication on January 13, 2023, and an amended Identification of Respondent communication on January 26, 2023.

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 January 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 26, 2023. The Respondent did not submit any response. Accordingly, the Center proceeded to panel appointment on February 21, 2023.

The Center appointed Jeremy Speres, as the sole panelist in this matter on February 24, 2023. 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 public library with seven branches in Denver, United States. The Complainant also offers outreach services through a bookmobile which visits neighbourhoods and communities throughout its county. The Complainant has received numerous awards and much media attention for its innovation in library services. The Complainant has traded under its ANYTHINK mark since 2009. The Complainant registered <anythinklibraries.org> in 2009, which it has continuously used as its primary web presence since that date.

The Complainant owns numerous trade mark registrations in the United States for its ANYTHINK mark, including trade mark registration no. 5584542 ANYTHINK (word) in Class 41, with registration date October 16, 2018.

The Domain Name was registered on September 29, 2022, and does not resolve to any active website. The Complainant has presented evidence of the Domain Name being used for email-based fraud, specifically, to send emails impersonating the Complainant and its Executive Director, requesting payment of a fraudulent invoice.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its ANYTHINK mark, that the Respondent has no rights or legitimate interests in the Domain Name, and the Domain Name was registered and used in bad faith given that the Domain Name, a typosquatting variant of the Complainant's mark, has been used to impersonate a director of the Complainant for purposes of payment fraud.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Matter: Respondent's Identity

The communication received by the Center on January 10, 2023, was sent from the same email address listed for the registrant of the Domain Name in the Whois record, and the sender signed the email using the same name as the Respondent. The sender stated, in essence, that the Domain Name was registered without the sender's knowledge or authorisation.

The Domain Name forming part of the email address of the sender (corresponding to the registrant email address for the Domain Name) is apparently associated with a barrister's office in Canada. The sender of the email to the Center of January 10, 2023, is ostensibly a law clerk within that office. There is no indication that the barrister's office is involved with the Domain Name at all. The Panel independently visited the barrister's website and was confronted with a security warning raised by the Panel's browser¹. It appears that the security certificate for the website expired years ago and the current certificate is not issued by a trusted Certificate Authority.

Given the denial received from the law clerk and the security issues concerning the barrister's website, it seems quite possible that the true, underlying respondent in this case impersonated a third party, namely the law clerk, for malicious purposes, possibly by compromising the barrister's domain name.

Although the evidence is not sufficient to establish this conclusively, the Panel's view is that there are sufficient doubts about the identity of the Respondent to caution that the named Respondent may well not be the true registrant of the Domain Name.

6.2. Substantive Matters

A. Identical or Confusingly Similar

It is well established that where a domain name consists of a misspelling of a trade mark such that the mark is recognisable, as in this case, the domain name is confusingly similar. See the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 1.9. In this case, the Domain Name consists in part of a misspelling of the Complainant's ANYTHINK mark – the letter "I" is absent. The deletion or addition of one letter is an insignificant change for the purposes of paragraph 4(a)(i) of the Policy (*ACCOR v. Eduardo Marchiori Leite*, WIPO Case No. [D2004-0680](#)). The Complainant's mark remains recognisable within the Domain Name and the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant's mark was registered and used extensively long prior to registration of the Domain Name. The Domain Name is confusingly similar to the Complainant's mark (incorporating a typographical variant of the Complainant's mark), the Complainant has certified that the Domain Name is unauthorised by it, the Respondent did not file a substantive Response, and there is no evidence that any of the circumstances set out in paragraph 4(c) of the Policy pertain.

The Complainant has presented credible, uncontroverted evidence that the Domain Name has been used to impersonate its Executive Director for the purpose of soliciting undue payments. UDRP panels have categorically held that use of a domain name for illegal activity (e.g., phishing, impersonation, or other types of fraud) can never confer rights or legitimate interests ([WIPO Overview 3.0](#) at section 2.13.1). The Complainant has satisfied paragraph 4(a)(ii) of the Policy by virtue of having made out an unrebutted *prima facie* case ([WIPO Overview 3.0](#) at section 2.1).

C. Registered and Used in Bad Faith

It is well accepted that use of a domain name to perpetuate fraud constitutes bad faith ([WIPO Overview 3.0](#) at section 3.4). That fraud was the intention of the Respondent upon registration of the Domain Name, and that the Respondent was aware of and targeted the Complainant's mark, is clear from the evidence presented by the Complainant showing that the Domain Name has been used to impersonate the Complainant's Executive Director to solicit a payment that was not due and thus fraudulent.

¹ Noting in particular the general powers of a panel articulated *inter alia* in paragraphs 10 and 12 of the UDRP Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision.

The composition of the Domain Name clearly indicates targeting of the Complainant. The Complainant's ANYTHINK mark is invented and unique, and the additional term "libraries" is descriptive of the Complainant's services ([WIPO Overview 3.0](#) at section 3.2.1).

The Panel draws adverse inferences from the Respondent's failure to take part substantively in the present proceeding where an explanation is certainly called for ([WIPO Overview 3.0](#) at section 4.3). The Complainant has satisfied 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 Domain Name, <anythnlibraries.org>, be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: February 28, 2023