

## **ADMINISTRATIVE PANEL DECISION**

ZipRecruiter, Inc. v. David Wainwright  
Case No. D2023-4068

### **1. The Parties**

The Complainant is ZipRecruiter, Inc. (“Complainant”), United States of America, represented by SafeNames Ltd., United Kingdom.

The Respondent is Wainwright, David (“Respondent”), United States of America.

### **2. The Domain Name and Registrar**

The disputed domain name <support-ziprecruiter.com> is registered with Register.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 28, 2023. On September 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 2, 2023, 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 October 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 25, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on October 26, 2023.

The Center appointed Brian J. Winterfeldt as the sole panelist in this matter on November 27, 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**

Complainant ZipRecruiter, Inc. (“Complainant” or “ZipRecruiter”) is an American company providing online recruitment services for both individuals and commercial entities. Founded in 2010, Complainant services more than seven million active job seekers and 10,000 new companies each month, and has over 40 million job alert email subscribers.

Complainant is the owner of numerous national and international trademark registrations worldwide comprising ZIPRECRUITER (the “Mark”) for use in connection with services in the recruitment industry, with sample registration details as follows:

- ZIPRECRUITER, United States Trademark Reg. No. 3934310, registered on March 22, 2011;
- ZIPRECRUITER, European Trademark Reg. No. 015070873, registered on June 13, 2016;
- ZIPRECRUITER, United Kingdom Trademark Reg. No. UK00915070873, registered on June 13, 2016.

Complainant also owns and operates the <ziprecruiter.com> domain name, which was created in November 2010.

The disputed domain name was registered on July 1, 2023. The disputed domain name currently resolves to a parked page featuring third-party pay-per-click links.

#### **5. Parties’ Contentions**

##### **A. Complainant**

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, Complainant contends that the disputed domain name is identical or confusingly similar to Complainant’s ZIPRECRUITER trademark in which Complainant has rights as demonstrated through its cited registrations. The Mark was adopted and has been continuously used since at least as early as 2010 in connection with online recruitment services. Complainant maintains its online presence through its website hosted at its numerous domain names, including <ziprecruiter.com>.

Complainant argues that the disputed domain name fully incorporates the Mark. Complainant also argues that the addition of “support” and a hyphen in addition to the Mark is clearly not sufficient to avoid a likelihood of confusion with Complainant’s prior rights. Complainant argues that a likelihood of confusion is therefore undeniable and is reinforced by the high degree of recognition enjoyed by Complainant.

Complainant asserts that Respondent lacks any rights or legitimate interests in the disputed domain name. According to Complainant, Respondent does not have any trademark rights to the Mark. Complainant alleges that Respondent is not using the disputed domain name in connection with any legitimate noncommercial or fair use without intent for commercial gain. Complainant argues that Respondent’s use of the disputed domain name to direct Internet users to a parked pay-per-click webpage featuring third-party links related to Complainant clearly shows that Respondent is intentionally using the Mark to redirect potential customers away from Complainant’s website.

Complainant argues that Respondent both registered and is using the disputed domain name in bad faith. According to Complainant, Respondent registered and is using the disputed domain name intentionally in an attempt to attract Internet users to its website by creating a likelihood of confusion with Complainant’s trademark. Complainant also argues that the mere fact that Respondent has registered the disputed domain name which incorporates the ZIPRECRUITER trademark is alone sufficient to give rise to an inference of

opportunistic bad faith. Complainant also argues that Respondent's lack of response to Complainant's cease and desist letter constitutes further evidence of bad faith. Complainant further argues that the content and use of Respondent's website also evidences bad faith on account of the parked pay-per-click webpage. Complainant argues that such actions clearly show the domain name was registered and is being used in bad faith.

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

Under paragraphs 5(f) and 14(a) of the Rules, the effect of a default by a respondent is that, in the absence of exceptional circumstances, the panel shall proceed to a decision on the basis of the complaint.

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel 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 was registered and is being used in bad faith.

A respondent's default does not by itself satisfy a complainant's burden of proof and is not necessarily an admission that the complainant's allegations are true. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). Thus, even though Respondent has failed to address Complainant's contentions, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence. See, e.g., *The Knot, Inc. v. In Knot We Trust LTD*, WIPO Case No. [D2006-0340](#).

### **A. Identical or Confusingly Similar**

A national or international trademark registration is *prima facie* evidence that the holder has the requisite rights in the registered mark for purposes of paragraph 4(a)(i) of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Complainant has provided evidence that it owns multiple trademark registrations for the ZIPRECRUITER trademark as referenced above. Therefore, Complainant has established that it has rights in the Mark.

The remaining question under the first element of the Policy is whether the disputed domain name (typically disregarding the Top-Level Domain ("TLD") in which the domain name is registered) is identical or confusingly similar to Complainant's mark. It is well accepted that the first element functions primarily as a standing requirement and that the threshold test for confusing similarity involves a "reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name". [WIPO Overview 3.0](#), section 1.7. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. *Id.*

Here, the disputed domain name is identical to and incorporates the entirety of the Mark. A side-by-side comparison of the Mark and the disputed domain name reveals that the Mark is easily identifiable within the disputed domain name.

Therefore, the Panel finds that Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its trademark rights and showing that the disputed domain name is confusingly similar to its mark.

## **B. Rights or Legitimate Interests**

Under paragraph 4(a)(ii) of the Policy, Complainant must make at least a *prima facie* showing that Respondent possesses no rights or legitimate interests in the disputed domain name. See [WIPO Overview 3.0](#), section 2.1. Once Complainant makes such a *prima facie* showing, the burden of production shifts to Respondent, though the burden of proof always remains on Complainant. If Respondent fails to come forward with evidence showing rights or legitimate interests, Complainant will have sustained its burden under the second element of the UDRP.

Paragraph 4(c) of the Policy lists the ways that Respondent may demonstrate rights or legitimate interests in the disputed domain name:

- (i) before any notice of the dispute, Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) Respondent (as an individual, business or other organization) has been commonly known by the disputed domain name, even if it has acquired no trademark or service mark rights; or
- (iii) Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Here, Complainant has alleged that Respondent has no rights or legitimate interests in the disputed domain name. Respondent has failed to come forward with any evidence showing rights or legitimate interests. Respondent has not submitted any arguments or evidence to rebut Complainant's contention that Respondent is not an assignee or licensee of Complainant and that Respondent has no other business relationship with Complainant. Complainant has contended that Respondent is not commonly known by the disputed domain name and that there is no evidence that Respondent has established trademark rights in the disputed domain name. Again, Respondent has not provided any evidence or arguments to demonstrate that it has such rights.

Accordingly, the Panel finds that Respondent does not have any rights or legitimate interests in the disputed domain name.

## **C. Registered and Used in Bad Faith**

Bad faith is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. Paragraph 4(b) of the Policy provides that any one of the following non-exclusive scenarios constitutes evidence of a respondent's bad faith:

- (i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name 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 of a competitor; or

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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.

Here, Respondent's actions align with 4(b)(iv) of the Policy. The disputed domain name contains the entirety of the ZIPRECRUITER mark. Due to the well-known nature of Complainant's brand, evidenced by its numerous trademark registrations, along with the unauthorized use of the Mark in the disputed domain name, Respondent was undoubtedly aware of Complainant and the Mark when it registered the disputed domain name. Respondent also failed to respond to Complainant's cease and desist letter explicitly identifying the ZIPRECRUITER mark. Further, the use of Respondent's website, which is a parked page featuring pay-per-click third-party links, can only serve to create a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of Respondent's website for commercial gain. Respondent's use of the Mark in the disputed domain name in connection with Respondent's website clearly evidences bad faith on the part of Respondent in the registration and use of the disputed domain name.

This Panel therefore finds that Respondent acted in bad faith by its registration and use of the disputed domain name, intentionally creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of Respondent's website with the purpose of attracting Internet users for commercial gain as per paragraph 4(b)(iv) 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 <support-ziprecruiter.com> be transferred to Complainant.

*/Brian J. Winterfeldt/*

**Brian J. Winterfeldt**

Sole Panelist

Date: December 11, 2023