

ADMINISTRATIVE PANEL DECISION

Inspira Marketing Group LLC v. Rey Cameron
Case No. D2023-4190

1. The Parties

The Complainant is Inspira Marketing Group LLC, United States of America (“United States”), represented by McCarter & English, LLP, United States.

The Respondent is Rey Cameron, United States.

2. The Domain Name and Registrar

The disputed domain name <Inspiramarketing.com> (the “Disputed Domain Name”) is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 9, 2023. On October 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On October 11, 2023, 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 (Whols Privacy Protection Foundation) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 17, 2023, 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 October 20, 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 October 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 16, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 23, 2023.

The Center appointed Lynda M. Braun as the sole panelist in this matter on December 13, 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

Founded in 2008, the Complainant is a Connecticut limited liability company with a principal place of business in Norwalk, Connecticut, United States. The Complainant is an experiential marketing agency specializing in reaching consumers, fostering meaningful connections, and propelling brands forward. The Complainant offers promotional strategy, graphic design, consumer insights, and brand planning services to its customers. The Complainant employs more than 375 people throughout the United States, with satellite offices in New York City, Los Angeles, and Chicago. Its client roster includes some of the world's leading brands including Jeep, American Express, National Geographic, Microsoft, Diageo and Life Is Good.

The Complainant is the owner of the following trademarks registered with the United States Patent and Trademark Office ("USPTO"): INSPIRA MARKETING GROUP, United States Trademark Registration No. 3,594,014, registered on March 24, 2009, in international class 35; and INSPIRA, United States Trademark Registration No. 7,107,571, registered on July 11, 2023, in international class 35 (hereinafter collectively referred to as the "INSPIRA Mark").

The Complainant owns the domain name <inspiramarketing.com> which resolves to the Complainant's primary consumer-facing website at "www.inspiramarketing.com", and which the Complainant uses to provide information about its marketing services.

The Disputed Domain Name was registered on August 29, 2023, and resolves to a pay-per-click ("PPC") advertising page with links to third-party sponsored websites related to marketing services.

The Respondent also used the Disputed Domain Name to send messages to potential job candidates by impersonating a member of the Complainant's staff. The messages sought to defraud applicants first by purportedly persuading them to provide personal information on a questionnaire in connection with their job applications followed by an online interview. The Respondent used the Disputed Domain Name to create email addresses for the Complainant's staff, *i.e.*, "[...]@inspiramarketing.com", that were associated with the Disputed Domain Name and to fraudulently send those emails to the potential job seekers. In this way, the Respondent perpetuated a phishing scheme whereby the job applicants were required to provide personal and confidential information to the Respondent, who falsely claimed an association with the Complainant by giving job applicants the false impression that the Complainant created the job posting on LinkedIn. Thus, the fraudulent messages were a scam to obtain personally-identifiable information from the candidates through the completed questionnaires for the purpose of committing identity theft and/or financial fraud.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

Notably, the Complainant contends that:

- the Disputed Domain Name is confusingly similar to the Complainant's INSPIRA Mark as it includes the Complainant's mark in its entirety, save for a misspelling, followed by the generic Top-Level Domain ("gTLD");

- the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because the Disputed Domain Name resolves to a landing page that contains PPC third-party sponsored hyperlinks and the Respondent also used the Disputed Domain Name in connection with an email job offer phishing scam, wherein the Respondent impersonated a member of the Complainant's staff in connection with an offer of a non-existent remote job to interested job applicants; and
- the Disputed Domain Name was registered and is being used in bad faith since, among other things, the Disputed Domain Name contains a misspelling of the Complainant's INSPIRA Mark in the Disputed Domain Name in an attempt to deceive unwitting Internet users as to the source and sponsorship of the Respondent's Disputed Domain Name and resolving website.

The Complainant seeks the transfer of the Disputed Domain Name from the Respondent to the Complainant in accordance with paragraph 4(i) of the Policy.

B. Respondent

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

6. Discussion and Findings

In order for the Complainant to prevail and have the Disputed Domain Name transferred to the Complainant, the Complainant must prove the following (Policy, paragraph 4(a)):

- (i) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the 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.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a two-fold inquiry: a threshold investigation into whether a complainant has rights in a trademark, followed by an assessment of whether the disputed domain name is identical or confusingly similar to that trademark. The Panel concludes that in the present case, the Disputed Domain Name is confusingly similar to the INSPIRA Mark.

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

It is uncontroverted that the Complainant has established rights in the INSPIRA Mark based on its years of use as well as its registered trademarks for the INSPIRA Mark before the USPTO. The registration of a mark satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. As stated in section 1.2.1 of the [WIPO Overview 3.0](#), "[w]here the complainant holds a nationally or regionally registered trademark or service mark, this *prima facie* satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case". Thus, the Panel finds that the Complainant satisfied the threshold requirement of having trademark rights in the INSPIRA Mark.

The Disputed Domain Name consists of the INSPIRA Mark almost in its entirety, although the Disputed Domain Name is misspelled by using a lower-case letter "l" instead of an upper-case letter "I". Such a minor modification to a trademark is commonly referred to as "typosquatting" and seeks to wrongfully take advantage of errors by a user in typing a domain name into a web browser. In addition, the INSPIRA Mark is followed by the term "marketing", and then followed by the gTLD ".com".

The misspelling of the Disputed Domain Name does not prevent a finding of confusing similarity to the INSPIRA Mark. See, e.g., [WIPO Overview 3.0](#), section 1.9 (“A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element”); *LinkedIn Corporation v. Daphne Reynolds*, WIPO Case No. [D2015-1679](#) (minor alterations or substitution of a single letter cannot prevent a finding of confusing similarity).

In addition, where the Complainant’s INSPIRA Mark, as here, is recognizable in the Disputed Domain Name, this does not prevent a finding of confusing similarity or identity under the first element. As stated in section 1.8 of [WIPO Overview 3.0](#), “where the relevant trademark is recognizable within the disputed domain name, the addition of other terms [...] would not prevent a finding of confusing similarity under the first element”.

Moreover, the Disputed Domain Name is followed by the gTLD “.com”. The addition of a gTLD such as “.com” in a domain name is a technical requirement. Thus, it is well established that such element may typically be disregarded when assessing whether a disputed domain name is identical or confusingly similar to a trademark. See *Proactiva Medio Ambiente, S.A. v. Proactiva*, WIPO Case No. [D2012-0182](#) and [WIPO Overview 3.0](#), section 1.11.1. Thus, the Panel concludes that the Disputed Domain Name is confusingly similar to the Complainant’s INSPIRA Mark.

Based on the available record, the Panel finds that the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which a respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving that a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name such as those enumerated in the Policy or otherwise.

The Complainant’s *prima facie* case includes the fact that the Complainant has not authorized, licensed or otherwise permitted the Respondent to use its INSPIRA Mark, that the Complainant does not have any type of business relationship with the Respondent, that there is no evidence that the Respondent is commonly known by the Disputed Domain Name or by any similar name, and that there is no evidence that the Respondent was using or making demonstrable preparations to use the Disputed Domain Name in connection with a *bona fide* offering of goods or services. See Policy, paragraph 4(c).

According to the evidence provided by the Complainant, the Respondent was using the Disputed Domain Name as part of a scheme in which the Respondent contacted job applicants using an email address associated with the Disputed Domain Name to create the impression that the emails were being sent by the Complainant to illegitimately induce them to provide their personal and confidential information in job questionnaires. Such a scheme cannot be considered a *bona fide* offering of goods or services or a

legitimate noncommercial or fair use of the Disputed Domain Name. See *CMA CGM v. Diana Smith*, WIPO Case No. [D2015-1774](#) (finding that the respondent had no rights or legitimate interests in the disputed domain name, holding that “such phishing scam cannot be considered a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use of the Domain Name”). See also [WIPO Overview 3.0](#), section 2.13.1 (“Panels have categorically held that the use of a domain name for illegal *activity* (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent.”).

Further, considering the use made of the Disputed Domain Name to resolve to a landing page with PPC hyperlinks, the Panel finds that the Respondent was not making a *bona fide* offering of goods or services nor making a legitimate noncommercial or fair use of the Disputed Domain Name.

Based on the available record, the Panel finds that the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

First, the Respondent's phishing scheme to email job-seeking individuals fraudulent job offers purporting to come from the Complainant, and to collect the personal and confidential information of such individuals, evidences a clear intent to disrupt the Complainant's business, deceive individuals, and trade off the Complainant's goodwill by creating an unauthorized association between the Respondent and the Complainant's INSPIRA Mark. See *Banco Bradesco S.A. v. Fernando Camacho Bohm*, WIPO Case No. [D2010-1552](#). Such conduct is emblematic of the Respondent's bad faith registration and use of the Disputed Domain Name. Numerous UDRP panels have found that email-based phishing schemes that use a complainant's trademark in the disputed domain name are evidence of bad faith. See, e.g., *BHP Billiton Innovation Pty Ltd v. Domains By Proxy LLC / Douglass Johnson*, WIPO Case No. [D2016-0364](#) (“[T]he use of an email address associated with the disputed domain name, to send a phishing email for the purposes of dishonest activity is in itself evidence that the disputed domain name was registered and is being used in bad faith.”); *DeLaval Holding AB v. Registration Private, Domains By Proxy LLL / Craig Kennedy*, WIPO Case No. [D2015-2135](#).

Second, while the Panel considers that the Respondent's phishing scheme leads to a clear finding of registration and use of the Disputed Domain Name, even if for the sake of completeness, the Panel will further consider the use in connection with a PPC website. Based on the circumstances here, the Panel concludes that the Respondent registered and is using the Disputed Domain Name in bad faith in an attempt to attract Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's INSPIRA Mark as to the source, sponsorship, affiliation or endorsement of the Disputed Domain Name. The Respondent's registration and use of the Disputed Domain Name indicate that such registration and use has been done for the specific purpose of trading on and targeting the name and reputation of the Complainant. See *Madonna Ciccone, p/k/a Madonna v. Dan Parisi and “Madonna.com”*, WIPO Case No. [D2000-0847](#) (“[t]he only plausible explanation for Respondent's actions appears to be an intentional effort to trade upon the fame of Complainant's name and mark for commercial gain”). When coupled with the fact that the Respondent is using the Disputed Domain Name to redirect users to a PPC advertising page with competing third-party sponsored websites, it is clear the Respondent intended to profit from and/or harm the Complainant's trademark and reputation when registering the Disputed Domain Name with the sole purpose of capitalizing on the user traffic intended for the Complainant's website. Such conduct is emblematic of the Respondent's bad faith.

Third, the Disputed Domain Name contains a misspelling of the Complainant's INSPIRA Mark in the Disputed Domain Name to deceive Internet users and capitalize on Internet users' typing errors. Such misspelling is evidence of bad faith registration and use. See *ESPN, Inc. v. XC2*, WIPO Case No. [D2005-0444](#) ("It is well-settled that the practice of typosquatting, of itself, is evidence of the bad faith registration of a domain name.").

Based on the available record, the Panel finds that the third element of the Policy has been established.

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 <Inspiramarketing.com> be transferred to the Complainant.

/Lynda M. Braun/

Lynda M. Braun

Sole Panelist

Date: December 27, 2023