

ADMINISTRATIVE PANEL DECISION

PeaceHealth v. Andrii Gava Adam Abakumov, and Andrii Gava
Case No. D2024-1607

1. The Parties

The Complainant is PeaceHealth, United States of America (“United States” or “US”), represented by Schwabe, Williamson & Wyatt, P.C., United States.

The Respondents are Andrii Gava Adam Abakumov, and Andrii Gava, Ukraine.

2. The Domain Names and Registrar

The disputed domain names <peacehealthlabs.net>, and <peacehealthlabs.org> (the “Domain Names”) are registered with Porkbun LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 16, 2024. On April 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On April 17, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. In response to a notification by the Center that the Complaint was administratively deficient, the Complainant filed an amended Complaint on April 24, 2024.

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 May 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 27, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 28, 2024.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on May 31, 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a not-for-profit healthcare system with medical centers, critical access hospitals, and medical clinics located in the United States.

The Complainant owns trademarks containing the words PEACEHEALTH, such as the US trademark No. 2000247 (registered on September 10, 1996).

According to the Complainant, the Domain Names were registered on February 14, 2001, and August 8, 2022. The Domain Names have resolved to webpages purporting to offer the same services in the same states as the Complainant, and/or purporting to be connected to the Complainant. The webpage lists messages, references and contact persons which appear to be taken from the Complainant. The Respondent has also posted information on how to falsify or otherwise cheat on drug and alcohol tests. At the time of drafting the Decision, the Domain Names resolved to error pages.

5. Parties' Contentions

A. Complainant

The Complainant argues that the Domain Names are under common control, and consolidation would be fair and equitable and promotes judicial efficiency.

The Complainant contends that the Complainant is well-known in the Pacific Northwest region of the United States. The Complainant provides evidence of trademark registrations that pre-date the Respondents' registration of the Domain Names. The Complainant argues that the Domain Names incorporate the entirety of the Complainant's trademark. The only difference is the addition of the term "labs" in the Domain Names. It does not prevent confusing similarity.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Names. The Complainant asserts that the Respondent has not been granted any authorization to use the Complainant's trademark. The Respondent has used the Domain Names to impersonate the Complainant and/or to lure Internet users to believe the Respondent's webpage is endorsed by the Complainant.

The Complainant argues that the Domain Names were registered to create a confusion with the Complainant, and/or to disrupt the business of a competitor. The Respondent attempts to disrupt the Complainant's business by passing itself off as the Complainant. The Respondent's use of the Complainant's trademark – to trick consumers into believing that the Complainant endorses the Respondent – is evidence of bad faith.

B. Respondent

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

6. Discussion and Findings

6.1. Procedural Issues

A. Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or under common control. The

Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules. The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder. In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards to common control, the Panel notes that the only difference between the name of the registrants is that one of the registrants has two additional names listed. Both registrations have the same postal address, telephone number, and email address. One of the Domain Names has forwarded automatically to the webpage of the other Domain Name. It points to common control.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the dispute regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

B. Listed address in the Ukraine

The Registrar has indicated that the Respondent's mailing address is stated to be in Ukraine, subject to an international conflict at the date of this Decision that may impact case notification. The Panel finds it appropriate to consider whether the proceeding should continue based on the premise that the Respondent is situated in Ukraine.

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition.

Having considered all the circumstances of the case, the Panel is of the view that it should. The Panel notes that the courier was not able to deliver the written notice to the Respondent's postal address in Ukraine. However, the Notification of Complaint was delivered to the Respondent's email address provided by the Registrar without receiving any delivery failure response, and the Respondent has not opposed to the continuation of the proceedings.

The Complainant has specified in the Complaint that any challenge made by the Respondent to any decision to transfer the Domain Name shall be referred to the jurisdiction of the courts of the location of the concerned registrar, which is the US.

Moreover, as described below, the Panel has no doubt that the Respondent registered and has used the Domain Names in bad faith to target the Complainant and mislead consumers.

6.2. Substantial Issues

A. Identical or Confusingly Similar

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 Domain Name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has established that it has rights in the trademark PEACEHEALTH. The Domain Names incorporate the Complainant's trademark with the addition of "labs". The addition does not prevent a finding of confusing similarity between the Domain Names and the trademark. [WIPO Overview 3.0](#), section 1.8. When assessing identity or confusing similarity under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD"), here ".com" and ".org". [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the Domain Names are confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

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. While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible 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. 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.

Based on the evidence, the Respondent is not affiliated or related to the Complainant in any way. There is no evidence that the Respondent has registered the Domain Names as a trademark or acquired trademark rights. There is no evidence of the Respondent's use of, or demonstrable preparations to use, the Domain Names or a name corresponding to the Domain Names in connection with a bona fide offering of goods or services. Finally, the Panel finds that the composition of the Domain Names carries a risk of implied affiliation with the Complainant.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Names in accordance with paragraph 4(a)(ii) of the Policy.

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.

The Respondent most likely knew of the Complainant when he registered the Domain Names. It follows from the composition and use of the Domain Names. The Respondent attempts to pass itself off as the Complainant, while including information that could be detrimental to the Complainant's reputation (e.g. information on how to falsify or otherwise cheat on drug and alcohol tests). The Respondent's use of the Domain Names indicates fraudulent intent given the content previously available on the website. Moreover, the Respondent has not offered any explanation as to why it registered the Domain Names, nor provided any evidence of actual or contemplated good faith use of the Domain Names.

Based on the available record, the Panel finds that the Complainant has established the third element 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 the Domain Names, <peacehealthlabs.net> and <peacehealthlabs.org> transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: June 11, 2024