

ADMINISTRATIVE PANEL DECISION

FourKites Inc. v. Damien CURTIS, HANSKED, INC
Case No. D2024-2364

1. The Parties

Complainant is FourKites Inc., United States of America (“U.S.”), represented by Polsinelli PC Law firm, U.S.

Respondent is Damien Curtis, Hansked, Inc, U.S.

2. The Domain Name and Registrar

The disputed domain name <fourkite.com> (the “Domain Name”) is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 10, 2024. On June 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. That same day, 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 (Redacted for Privacy, See PrivacyGuardian.org) and contact information in the Complaint. The Center sent an email communication to Complainant on June 12, 2024 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on June 13, 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 Respondent of the Complaint, and the proceedings commenced on June 20, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 10, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on July 11, 2024.

The Center appointed Harrie R. Samaras as the sole panelist in this matter on July 22, 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 by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

Complainant is a supply chain visibility company founded in 2013 with offices in the United States and abroad (e.g., Netherlands, Germany, India, Singapore). It provides services internationally, tracking more than 3 million shipments daily across road, rail, ocean, air, parcel and last mile, and reaches over 200 countries and territories.

Complainant owns U.S. Registration No. 4,601,341 for FOURKITES (registered September 9, 2014) (the "Mark" or the "FOURKITES Mark"). Since its inception, Complainant has used the Mark in connection with its products and services in the United States and internationally. Also, Complainant maintains a website at <fourkites.com>.

The Domain Name was registered on May 29, 2024. It does not currently resolve to a website. Respondent has been using the Domain Name in a fraudulent scheme. That scheme includes posting fake job openings to solicit applicants for positions advertised as if they were with Complainant. When an applicant submits an inquiry on the Internet about the job posting, an email is sent to the applicant inviting them to participate in an "electronic interview". When the applicant confirms their interest, Respondent sends the applicant a "Screening test/Interview questions" document. That document is made to look like it originated from Complainant, using Complainant's Mark (in the body of the letter and in conjunction with the position of the human relations ("HR") person purportedly writing to applicants, logo, and one of its mailing addresses. After the applicant submits answers to the "Screening test/Interview questions," Respondent indicates that the applicant's qualifications and expertise were considered (and the letter implies acceptable for the position) and sets forth a purported job offer while soliciting additional personal information from the applicant for the "onboarding process." That information is: Full Name; Full Home Address; Phone Number; Email; and Position.

Respondent will then send a purported "Employment Offer Letter," that is also made to look like it originated from Complainant, using Complainant's Mark, logo, and one of its mailing addresses. Thereafter, Respondent will solicit additional sensitive information from the applicant, such as the applicant's signature, driver's license photograph and related information on the front and back of the applicant's driver's license, and applicant's financial accounts (for direct deposit or wire transfer). At each step in the process, when Respondent sends emails to the applicants, Respondent uses an email originating from the Domain Name to appear to the applicants that the email is originating from Complainant (i.e., [name]@fourkite.com).

5. Parties' Contentions

A. Complainant

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

Notably, Complainant contends that the Domain Name is confusingly similar to the Mark because it is a typo-variation of Complainant's Mark, removing the letter "s" at the end of the Mark. Complainant also contends that Respondent does not have any rights or legitimate interests in the Domain Name because Respondent registered the Domain Name to create a false and misleading association between Respondent and Complainant, in an attempt to impersonate Complainant. The purposefully deceptive Domain Name anticipates, relies on and profits from the resulting confusion or mistake. This is not a bona fide offering of goods or services. Furthermore, Complainant is not aware of Respondent ever being commonly known by the Domain Name, nor is it derived from Respondent's name. Moreover, Respondent is not, and has never been, a representative of Complainant or licensed to use the Mark.

Respondent was well aware of Complainant and had the Mark in mind when registering the Domain Name.

Because the Domain Name is a confusingly similar typo-variation of Complainant's Mark, it must be inferred that Respondent was aware of Complainant's existence at the time it registered the Domain Name.

Respondent's fraudulent employment scheme described above, aimed at ultimately obtaining personal information and in some cases money from the applicants constitutes a non-legitimate use of the Domain Name with intent for commercial gain and to misleadingly divert consumers from Complainant's official website. It is more likely than not that Respondent's primary motive in registering and using the Domain Name was to capitalize on Complainant's trademark rights and defraud the public.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

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.

Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the Mark is recognizable within the Domain Name. Accordingly, the Domain Name is confusingly similar to the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The sole difference between the Domain Name and the Mark is that the former eliminates the letter "s" from the FOURKITES Mark. [WIPO Overview 3.0](#), section 1.9.

The Panel finds 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 the 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 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Domain Name. For example, Respondent has not been commonly known by the Domain Name and Complainant has not authorized Respondent to use the Mark for any purpose. Respondent has not rebutted Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity (described above) here, the creation of a false and misleading association between Respondent and Complainant in an attempt to impersonate Complainant and profit from such conduct, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds 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.

In the present case, the Panel notes that Respondent registered a confusingly similar Domain Name in which it has no rights or legitimate interests at least 10 years after Complainant began using the Mark. Since the inception of Complainant, it has used the Mark internationally including in the United States. Furthermore, the Domain Name incorporates the Mark in its entirety except for eliminating the last letter in the Mark – the letter “s”. The Domain Name is almost exactly the same as Complainant’s domain name except for the elimination of the same letter “s.” This evidence makes it more likely than not that Respondent knew of Complainant and its rights in the Mark when registering the Domain Name. Moreover, the fraudulent scheme that Respondent has been perpetuating with the Domain Name further evidences Respondent’s bad-faith registration because: (1) the correspondence to the applicants who have applied for the fake jobs use the Mark (without omitting the letter “s”) whether in the logo, in identifying the position of the HR person writing to the applicant, or in the body of the correspondence; (2) the correspondence to the applicants also reflects Complainant’s business address; and (3) the fake position – Shipping Logistics Specialist – being advertised, is one relating to Complainant’s business of helping big businesses manage their supply chains. For all of these reasons, the Panel concludes Respondent registered the Domain Name in bad faith.

Respondent’s bad faith use of the Mark is evident as follows: (1) Respondent’s fraudulent scheme appears to be aimed at getting sensitive, personal information from applicants which may ultimately lead to gaining access to the applicant’s financial accounts (e.g., obtaining applicant’s signature, driver license information, home address, wire transfer/direct deposit bank information), thus profiting financially from the scheme; (2) the fact that Respondent is not currently using the Domain Name in conjunction with a website is inconsequential as Respondent is using the confusingly similar Domain Name in which it has not rights or legitimate interests and the Mark to perpetrate fraudulent scheme and, could, in the future, use a website for similar purposes; and (3) Panels have held that the use of a domain name for illegal activity, the fraudulent scheme described above, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

The Panel finds that 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 that the Domain Name <fourkite.com> be transferred to Complainant.

/Harrie R. Samaras/

Harrie R. Samaras

Sole Panelist

Date: July 24, 2024