

ADMINISTRATIVE PANEL DECISION

Elsevier BV v. Sheikh Ukasha Elahi

Case No. D2024-5222

1. The Parties

The Complainant is Elsevier BV, Netherlands (Kingdom of the), represented by Nelson Mullins Riley & Scarborough LLP, United States of America ("United States").

The Respondent is Sheikh Ukasha Elahi, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <sciencedirects.com> is registered with GoDaddy.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 19, 2024. On December 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 19, 2024, 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 (Registration Private, Domains by Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 20, 2024, 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 December 27, 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 January 3, 2025. In accordance with the Rules, paragraph 5, the due date for Response was January 23, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 28, 2025.

The Center appointed Zoltán Takács as the sole panelist in this matter on January 30, 2025. 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 scientific publisher and data analytics company.

One of the Complainant's product offerings is the ScienceDirect database launched in 1997, a peer-reviewed, full-text scientific, technical, and health literature hosting over 18 million pieces of content from more than 4,000 academic journals and 30,000 e-books.

The Complainant is owner of the United States Registration No. 2226808, SCIENCECIRECT, registered on February 23, 1999.

The Complainant is also owner of the domain name <sciencedirect.com>, which was registered on March 12, 1997, and resolves to its website "www.sciencedirect.com".

The disputed domain name was registered on September 18, 2024, and was used for hosting web pages which were purportedly cloned variants of the Complainant's official website.

Currently the disputed domain name is inactive.

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:

- apart from the addition of the letter "s" the disputed domain name is virtually identical to its trademark;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name since it is unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii), or (iii) of the Policy; and
- the Respondent's use of the disputed domain name in connection with an apparent journal hijacking scam that is for hosting web pages which correspond to cloned versions of its official website is evidence of bad faith registration and use of the disputed domain name.

The Complainant requests that the disputed domain name be transferred from the Respondent to the Complainant.

B. Respondent

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

6. Discussion and Findings

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in respect of the domain name, and
- (iii) the domain name has been registered and is being used in bad faith.

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.

The 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 entirety of the SCIENCECIRECT mark is reproduced and is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here the letter "s" in the disputed domain name (which may be perceived as a plural, or a genitive case) the Panel finds that such addition does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 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 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 has not authorized, licensed, or allowed the Respondent or any third party to use its SCIENCEDIRECT mark through the disputed domain name or in any other way that would confer validity or legitimacy upon such usage.

According to the documentary evidence submitted by the Complainant, the Respondent has used the disputed domain name to host web pages which corresponded to cloned versions of the Complainant's official website at "www.sciencedirect.com".

Such practice is known and commonly referred to as "journal hijacking", which occurs when an imposter sets up a fraudulent website for a purpose of offering scholars the opportunity to publish their research online for a fee. Panels have held that the use of a domain name for illegal activity, here impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

In addition, the inherently misleading nature of the disputed domain name carries a risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

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.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

In the present case, the Panel notes that the Complainant's SCIENCEDIRECT mark is inherently distinctive and that its priority predates the date of registration of the disputed domain name.

As mentioned above the web pages at the disputed domain name were cloned variants of the content of the Complainant's official website, prominently featuring the Complainant's trademark and its signature logo.

In view of the Panel it is clear that the Respondent had actual knowledge of the Complainant and its trademark and registered the disputed domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark in order to gain illegitimate profit. Paragraph 4(b)(iv) of the Policy.

The Respondent's intent to target the Complainant's trademark can be readily inferred from impersonating the Complainant. Visitors of the Respondent's web pages at the disputed domain name might have reasonably believed that the contents at the disputed domain name were official, while that was clearly not the case.

Panels have held that the use of a domain name for illegal activity, in this case impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

The disputed domain name is currently inactive.

However, panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. In this context, the Panel notes the reputation of the Complainants' trademark, the composition of the disputed domain name, and the previous use of the disputed domain name, and finds that in the circumstances of this case the current passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

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 that the disputed domain name <sciencedirects.com> be transferred to the Complainant.

/Zoltán Takács/

Zoltán Takács

Sole Panelist

Date: February 13, 2025