

ADMINISTRATIVE PANEL DECISION

CenturyLink Communications, LLC d/b/a Lumen Technologies Group v.
Contact Privacy Inc. Customer 12411251562 / Jessica Schwartz
Case No. D2022-0437

1. The Parties

The Complainant is CenturyLink Communications, LLC d/b/a Lumen Technologies Group, United States of America (“United States”), represented by Wiley Rein LLP, United States.

The Respondent is Contact Privacy Inc. Customer 12411251562, Canada / Jessica Schwartz, United States.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 8, 2022. On February 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 9, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on February 17, 2022 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 February 22, 2022.

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 amended Complaint, and the proceedings commenced on February 23, 2022. In accordance with the Rules, paragraph 5, the due date for the Respondent to file a response was March 15, 2022. The Respondent did not submit any response. Accordingly, the Center notified the parties of the Respondent’s default on March 24, 2022.

The Center appointed Marylee Jenkins as the sole panelist in this matter on April 4, 2022. 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

Based on the review of the uncontested evidence submitted by the Complainant in the Complaint, the Panel finds that the Complainant is the owner of several trademark registrations for LUMEN-formative marks in the United States including, *inter alia*: (i) United States Trademark Registration No. 6,098,574 for LUMEN (filed on July 9, 2018; registered July 14, 2020) in International Classes 9, 35, 38, 41,, and 45; (ii) United States Trademark Registration No. 6,122,948 for LUMEN TECHNOLOGIES (filed on October 4, 2019; registered August 11, 2020) in International Classes 35, 37, 38, and 42; (iii) United States Trademark Registration No. 6,122,949 for LUMEN (filed on October 4, 2019; registered August 11, 2020) in International Classes 35, 37, 38, and 42; (iv) United States Trademark Registration No. 6,480,345 for LUMEN (filed on July 10, 2020; registered September 7, 2021) in International Class 42; and (v) United States Trademark Registration No. 6,503,590 for LUMEN (filed on July 10, 2020; registered September 28, 2021) in International Class 38 (individually and collectively referred to as the “Complainant’s Mark”). In addition, the Complainant owns the domain name <lumen.com>, which incorporates the Complainant’s Mark and which directs to the Complainant’s official website offering the Complainant’s networked enterprise communications, computer platforms and corresponding services.

The Respondent registered the Domain Name on October 7, 2021. There is no website accessible via the Domain Name.

5. Parties’ Contentions

A. Complainant

The Complainant states that it is the owner of the Complainant’s Mark, as established via the Complainant’s extensive use in United States commerce of the Complainant’s Mark giving rise to common law trademark rights and via its United States Trademark registrations and applications for numerous LUMEN-formative trademarks. The Complainant states that it announced its rebranding and launching of its enterprise services from CENTURYLINK to LUMEN on September 14, 2020. Concurrent with the Complainant’s rebranding announcement, the Complainant launched a website at the domain name <lumen.com> along with several social media channels incorporating the Complainant’s Mark. The Complainant alleges that through the use and promotion of the Complainant’s Mark, it has acquired great value and goodwill and that the Complainant is entitled to a transfer of the Domain Name based on the common law rights in the Complainant’s Mark.

The Complainant further alleges that in addition to its establishment of common law trademark rights prior to the registration of the Domain Name, the Complainant’s rights are also established through its extensive portfolio of LUMEN trademark registrations and applications. The Complainant states that it therefore possesses trademark rights that entitle it to recourse under the Policy.

The Complainant alleges that the Domain Name is confusingly similar to the Complainant’s Mark as it fully incorporates the Complainant’s Mark. The Complainant further alleges that the added terms in the Domain Name, namely, “home” and “jobs,” are common English-language terms with clear and immediately understood meanings. Particularly, in the context of the Respondent’s use of the Domain Name in connection with fraudulently posing as the Complainant for false job recruitment purposes, the Complainant alleges that such does not render the Domain Name any less similar to the Complainant’s Mark. The Complainant thus submits that the Domain Name is identical or confusingly similar to the Complainant’s Mark for which the Complainant has rights.

The Complainant alleges that the Respondent is not authorized to use the Complainant's Mark, the Respondent is not commonly known by the Domain Name and the Respondent does not have any rights or legitimate interests in the Domain Name. For example, apart from the Domain Name not resolving to an active webpage, the Complainant alleges that the Respondent has not used, nor undertaken any demonstrable preparations to use the Domain Name in connection with a *bona fide* offering of goods or services. Rather, the Respondent has used the Domain Name to engage in an elaborate phishing scam, including sending fraudulent emails impersonating actual employees of the Complainant under the guise of offering false job interviews and job opportunities while seeking sensitive information from targets, whose contact information is publicly accessible on third-party job listing websites and has submitted evidence showing such fraudulent activities with its Complaint.

The Complainant alleges that the Respondent's use of the Domain Name, which incorporates the Complainant's Mark, in connection with the elaborate phishing scam thereby causes actual confusion as demonstrated by using the Complainant's Mark within the fraudulent emails sent by the Respondent along with the targets' reactions to said fraudulent emails. Furthermore, the Complainant alleges that Respondent's deliberate attempts to pass itself off as the Complainant to commit fraud establish the Respondent's lack of rights or legitimate interests in the Domain Name.

The Complainant states that there is no evidence that the Respondent is commonly known by the Domain Name nor would such a claim be plausible in light the Respondent's use of the Domain Name to pass itself off as the Complainant. The Complainant continues that the only conceivable purpose of the Respondent's use of the Domain Name is to trade upon the goodwill associated with the Complainant's Mark and for the Respondent to perpetrate an Internet fraud or scam. The Complainant therefore alleges that the Respondent has no rights or legitimate interest in the Domain Name.

The Complainant further alleges that, based on the above, the Respondent registered and used the Domain Name in bad faith to intentionally attempt to attract, for commercial gain, Internet users to the Respondent's 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 site or of a product or service offered on the Respondent's site. The Complainant also states that, at the time of the initial filing of the Complaint, the Respondent had employed a privacy service to hide its identity, which supports an inference of bad faith registration and use. Based on the above, the Complainant alleges that it is more likely than not that the Respondent knew of and targeted the Complainant's Mark and that the Respondent should be found to have registered and used the Domain Name in bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy states that the domain name holder is to submit to a mandatory administrative proceeding in the event that a third party (i.e., complainant) asserts to an ICANN-approved dispute resolution service provider that:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) the domain name holder 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.

Under paragraph 14(b) of the Rules, the Panel shall draw such inferences from the Respondent's default as the Panel considers appropriate. Nevertheless, the Panel may rule in the Complainant's favor only after the Complainant has proven that the above elements are present.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has provided sufficient evidence to show that it is the owner of and has rights in and to the Complainant's Mark.

A review of the second-level domain ("lumenhomejobs") of the Domain Name shows that the domain comprises the Complainant's trademark LUMEN in its entirety and the terms "home" and "jobs" as a suffix. Rather the review of the Complainant's trademark registrations for the mark LUMEN in multiple classes shows that such registrations pre-date the Respondent's registration of the Domain Name. The use of the Complainant's Mark as a prefix and the addition of the terms "home" and "jobs" does not prevent a finding of confusingly similarity, as the Complainant's Mark is recognizable within the disputed Domain Name.

Accordingly, based on the above and the submitted evidence, the Panel concludes that the Domain Name is confusingly similar to the Complainant's Mark in which the Complainant has rights and that paragraph 4(a)(i) of the Policy has been satisfied.

B. Rights or Legitimate Interests

There is no evidence that the Complainant has at any time ever licensed, sponsored, endorsed, or authorized the Respondent to register or use the Complainant's Mark in any manner. In addition, there is no evidence that has been presented, before notice to the Respondent of the dispute, that the Respondent had been using or was making demonstrable preparations to use the Domain Name in connection with any type of *bona fide* offering of goods or services or that the Respondent is commonly known by the Domain Name, as an individual, business, or otherwise, having been named as Jessica Schwartz. Rather, the uncontested evidence establishes that the Domain Name, which does not resolve to an active website, has been used in fraudulent phishing activities by the Respondent. Particularly, the Respondent has sent e-mails using the Domain Name to impersonate the Complainant and its actual employees. Based on these phishing activities, the Respondent has then offered false job interviews and job opportunities, while seeking sensitive information from targets, whose contact information is then publicly accessible on third-party job listing websites.

Such evidence shows that the Respondent was using the Domain Name to confuse Internet users and those seeking jobs with the Complainant into believing that the Respondent was connected to, sponsored by, or affiliated with the Complainant. The Respondent's registration and use of the Domain Name do not in any manner constitute a *bona fide* offering of goods and services. Nor can such registration and use constitute legitimate noncommercial or fair use of the Domain Name in any fashion. Based on the evidence presented, the Respondent clearly registered the Domain Name to offer false and fraudulent job opportunities targeting potential job seekers of the Complainant for the Respondent's financial gain and benefit.

The Panel concludes that the Respondent has no rights or legitimate interests in the Domain Name and that paragraph 4(a)(ii) of the Policy has been satisfied.

C. Registered and Used in Bad Faith

Based upon the undisputed evidence submitted by the Complainant, the Panel finds that the Respondent had actual knowledge of the Complainant, the Complainant's Mark and its website when registering the Domain Name. This finding is supported by the uncontested and extensive evidence showing that the registration of the Domain Name by the Respondent in no way pre-dates the Complainant's substantially earlier registration dates for the Complainant's Mark. Rather the review of the Complainant's trademark registrations for the Complainant's Mark shows that such registrations well pre-date the Respondent's

registration of the Domain Name.

As the evidence further shows, the Respondent was not making any legitimate noncommercial or fair use of the Domain Name. Specifically, the evidence of the Respondent's fraudulent activities including, *inter alia*, impersonating the Complainant and the Complainant's employees by using the Complainant's Mark in email phishing attempts and using such obtained information for apparent financial gain and benefit. The Panel therefore concludes that the Respondent registered and used the Domain Name to intentionally attract, for commercial gain, Internet users, and particularly job seekers of the Complainant, to the Respondent and its Internet activities by creating a likelihood of confusion with the Complainant, the Complainant's Mark and its website as to the source, sponsorship, affiliation, or endorsement thereof and the goods and services offered thereon.

The Panel finds that the Respondent registered and is using the Domain Name in bad faith and that paragraph 4(a)(iii) of the Policy has been satisfied.

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 <lumenhomejobs.com> be transferred to the Complainant.

/Marylee Jenkins/

Marylee Jenkins

Sole Panelist

Date: April 24, 2022