

ARBITRATION AND MEDIATION CENTER

ADMINISTRATIVE PANEL DECISION

Accenture Global Services Limited v. Privacy Service Provided by Withheld for Privacy ehf/ Adnan Syed Case No. D2022-2190

1. The Parties

The Complainant is Accenture Global Services Limited, Ireland, represented by McDermott Will & Emery LLP, United States of America (United States).

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Adnan Syed, United Arab Emirates.

2. The Domain Name and Registrar

The disputed domain name <accentureinfinity.com> is registered with NameCheap, Inc. (the "Registrar"). It was registered on March 23, 2022. The registrant listed in the Whols record for the Domain Name is identified only by a privacy service, namely, Privacy service provided by Withheld for Privacy ehf.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 16, 2022. On June 16, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 16, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on July 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 June 20, 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 Complaint, and the proceedings commenced on June 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 17, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 19, 2022.

The Center appointed Edward C. Chiasson Q.C. as the sole panelist in this matter on July 25, 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

The Complainant is an international business Company that provides a broad range of services and solutions in strategy, consulting, digital, technology and operations under the name ACCENTURE and is the owner of the ACCENTURE trademark and company name and marks fully incorporating the ACCENTURE trademark (collectively the "ACCENTURE Marks"). The Complainant has offices and operations in more than 200 cities in 51 countries.

From January 2001, the Complainant has extensively used and continues to use the mark ACCENTURE in connection with various services and specialties, including management consulting and business process services, which comprises various aspects of business operations such as project management, supply chain and logistics services, digital innovation, as well as technology services and outsourcing services, etcetera.

To protect its trademark rights in the ACCENTURE Marks and to put others on notice of those rights, on October 6, 2000, the Complainant filed a United States trademark application (Application Serial No. 76/154,620) for the mark ACCENTURE, covering computer software, pamphlets, business consulting services, financial services, computer installation services, educational services and computer consulting services, among many other goods and services. This application matured to registration (Reg. No. 3,091,811) on May 16, 2006. The following table incorporates a representative list of United States trademark registrations for the ACCENTURE mark and ACCENTURE & Design mark, and variations thereof.

Mark	Goods and Services	Registration No.	Registration Date
ACCENTURE	Various goods and services in Classes 9, 16, 35, 36, 37, 41 and 42	3,091,811	May 16, 2006
ACCENTURE	Various goods and services in Classes 9, 16, 35, 36, 37, 41 and 42	2,665,373	December 24, 2002
ACCENTURE	Various goods in Classes 6, 8, 9, 14, 16, 18, 20, 21, 24 and 28	3,340,780	November 20, 2007
ACCENTURE	Various goods in Classes 18, 25 and 28	2,884,125	September 14, 2004
ACCENTURE & Design	Various services in Classes 35 and 36	3,862,419	October 19, 2010

These registrations are valid and subsisting and serve as *prima facie* evidence of the Complainant's ownership of the ACCENTURE mark and the validity of the ACCENTURE mark. Some of these registrations are incontestable and are conclusive evidence of the Complainant's exclusive right to use the ACCENTURE mark in the United States in connection with the stated goods and services. 15 U.S.C. §§ 1065 and 1115(b).

In order to help protect its trademark rights on an international basis, the Complainant owns registrations for the ACCENTURE mark and ACCENTURE & Design mark in more than 140 countries. The Complainant owns more than 1,000 registrations for the marks ACCENTURE, ACCENTURE & Design and many other marks incorporating the ACCENTURE brand for a variety of products and services including, but not limited to, its management consulting, technology services and outsourcing services. The Complaint provided a representative sampling.

The Complainant enjoys strong worldwide rights in, and recognition of, its ACCENTURE Marks. The Complainant has developed substantial goodwill in its ACCENTURE name and its ACCENTURE Marks, as well as its official domain name <accenture.com>. The Complainant has relied on the Internet as a forum to promote and disseminate information regarding the various offerings under the ACCENTURE Marks including, but not limited to, management consulting, technology services, outsourcing services, project management, and software solutions.

The Complainant owns and operates the website "www.accenture.com". It registered this domain name on August 30, 2000. At this website, Internet users can find detailed information about the management consulting, technology services, outsourcing and myriad other services offered by the Complainant and its global offices in connection with the ACCENTURE Marks – including consulting services in the field of financial services, financial technologies (or "FinTech"), and investments, which are the type of services purported to be advertised at the websites appearing at the Domain Name.

The ACCENTURE Marks have been advertised in connection with various media and have been written about in the press. The Complainant provided a list of its annual advertising expenditures worldwide since 2009 and a representative sampling of its global advertisements and press clippings featuring the ACCENTURE Marks.

Reputable brand consulting companies in the industry have recognized the ACCENTURE mark as a leading global brand. The ACCENTURE mark has been recognized in Interbrand's *Best Global Brands Report* since 2002, when it ranked 53rd. The ACCENTURE mark ranked 32nd in the 2021 Interbrand's *Best Global Brands Report*, its second highest ranking ever in the report.

The ACCENTURE mark has been recognized by Kantar Millward Brown, a leading market research and brand valuation company, in its annual *BrandZ – Top 100 Brand Rankings* since 2006 when it was ranked 58th. In 2021, the ACCENTURE brand ranked 27th.

The Complainant has been recognized for its business services and brand recognition. For the past 19 years, it has been listed in the Fortune Global 500, which ranks the world's largest companies. In addition, the Complainant has appeared in various other top rankings by Fortune, including No. 1 on Fortune's Most Powerful Women (2020) – a list that has included the Complainant's global CEO for five consecutive years.

The Complainant has received numerous awards for its business, products and services provided under the ACCENTURE Marks. A sampling of these awards was provided by the Complainant.

The Complainant supports numerous social development projects worldwide in connection with the ACCENTURE Marks including, but not limited to, its SKILLS TO SUCCEED initiative, which has equipped more than 3 million people around the world with the skills to find a job or build a business.

Millions of sports fans encounter the ACCENTURE Marks because the Complainant has served as a communications, media and entertainment partner for the Golden State Warriors basketball team, providing fan experiences, a mobile app, and education initiatives. From 2012 - 2017, the Complainant was the Official Technology Partner for the RBS 6 Nations Rugby Championship. The Complainant was a global umbrella sponsor of the World Golf Championships and the title sponsor of the series' season-opening event, the Accenture Match Play Championship.

The Complainant has collaborated with various groups on cultural initiatives across the world. For example, with the Louvre Museum to develop new technological programs designed to support the Louvre's initiatives to spread culture, enhance its image and reach new segments of the public. The Complainant is an official connections partner of the Cannes Lions Festival, and in 2017, the Complainant introduced innovative wearable technologies allowing delegates to exchange business information by simply bumping wrists.

5. Parties' Contentions

A. Complainant

The Domain Name is Confusingly Similar to the ACCENTURE Marks

The Complainant asserts that it has an interest in the ACCENTURE Marks and has been and will continue to be damaged by the Respondent's bad faith registration and use of the domain name (the "Domain Name").

The Domain Name is nearly identical and confusingly similar to the Complainant's ACCENTURE trademark. The Domain Name contains the Complainant's entire ACCENTURE trademark, paired only with the descriptive or known term "infinity".

The Domain Name was registered on March 23, 2022, over 20 years after the Complainant first registered its ACCENTURE mark.

The ACCENTURE mark is distinctive and famous. See *Accenture Global Services Limited v. ICS Inc./PrivacyProtect.org*, WIPO Case No. <u>D2013-2098</u>: finding that the Complainant demonstrated that its ACCENTURE mark has been used, extensively, is well known globally, is vested with significant goodwill and carries distinction. The ACCENTURE mark consists of a coined term and should be afforded a wide scope of protection, particularly in view of the ubiquitous nature of the brand as demonstrated by the heavy advertising presence worldwide. See *Accenture Global Services Limited v. ICS Inc./PrivacyProtect.org*, *supra.*, finding that the word "accenture" is not a term but was coined by the Complainant. Consumers associate this term exclusively with the Complainant and its products and services owing to the international goodwill that the Complainant has developed in the ACCENTURE mark over the years.

The addition of the ".com" generic Top-Level Domain ("gTLD") to the Domain Name is "completely without legal significance." See *PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.) and EMS Computer Industry (a/k/a EMS)*, WIPO Case No. D2003-0696, finding that the respondent's addition of a gTLD such as ".com" to domain names incorporating the term "Pepsi" was insufficient to distinguish the respondent's domain names from the complainant's mark PEPSI.

Adding random characters or a descriptive term to a trademark in a domain name fails to negate confusing similarity. See *Accenture Global Services Limited v. Redacted For Privacy, Redacted For Privacy / Lei Shi* (石磊), WIPO Case No. D2021-1911, finding that the addition of the descriptive term "rewards" to the ACCENTURE trademark "does not compromise the ability to recognize the Complainant's marks within the disputed domain name, or eliminate the confusing similarity between the Complainant's registered trademarks and the disputed domain name."

In the present case, the Respondent's registered Domain Name is virtually identical to and is confusingly similar to the Complainant's ACCENTURE mark, as well as its <accenture.com> domain, and is likely to mislead, deceive and cause mistakes as to the source, sponsorship, affiliation or endorsement of the Domain Name.

In assessing a likelihood of confusion between a registrant's domain name and a complainant's mark, "points of similarity are weighed more heavily than points of difference". See *Nintendo of America, Inc. v. Gray West International*, WIPO Case No. <u>D2000-1219</u>, finding the domain name <pokemon-games.com> confusingly similar to the Complainant's POKEMON trademark); See *also Accenture Global Services Limited v. Mark*

Henry, WIPO Case No. <u>D2020-1691</u>, finding the domain name <accenture-tradings.com> "...comprises the Complainant's trademark ACCENTURE in its entirety with the addition of a hyphen and a descriptive term. Neither the hyphen nor the descriptive term would eliminate confusing similarity".

In the present case, the Respondent's addition of the term "infinity" to the Domain Name does nothing to reduce its confusing similarity with the Complainant's ACCENTURE Marks.

The Respondent Has No Legitimate Interests in the Domain Name

Consistent with Paragraph 4(c) of the Policy, a respondent can demonstrate a legitimate interest in a domain name by proving one of the following: (i) that before notice of the dispute, it had made demonstrable preparations to use the domain name in connection with a *bona fide* offering of goods or services; (ii) it is commonly known by the domain name; or (iii) it is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain, to misleadingly divert consumers or to tarnish the trademarks of another. The Respondent in this case can demonstrate none of these criteria. It has no legitimate interest in the Domain Name.

The Respondent is neither affiliated with nor has it been licensed or permitted to use the Complainant's ACCENTURE Marks or any domain names incorporating the ACCENTURE Marks. Under the Policy, Paragraph 4(a)(ii), a statement that the Respondent is not licensed or otherwise authorized to use the disputed domain names constitutes *prima facie* proof for the Complainant that the Respondent lacks any rights or legitimate interests in the Domain Name. See *CareerBuilder, LLC v. Stephen Baker*, WIPO Case No. <u>D2005-0251</u>

The Respondent has registered the Domain Name using a privacy proxy service in order to mask its identity. The Respondent is not commonly known by the Domain Name and was not known as such prior to the date on which it registered the Domain Name to trade on the value of Complainant's famous trademark, see Policy 4(c)(ii). As such, it appears that the Respondent has chosen to use the Complainant's famous ACCENTURE trademark in its Domain Name to create a direct affiliation with, or to pass itself off as, the Complainant and its business.

The Respondent is not making a legitimate, noncommercial, fair use of the Domain Name. It is using the Domain Name to hold itself out as the Complainant or to advertise and promote a financial trading and investment business that competes, or has the potential to compete, directly with the Complainant's financial services offerings: notably, the Complainant's financial services business providing strategy and consulting services in the fields of banking, capital markets, investments and exchanges, insurance, financial growth, financial risk, talent and organization, and technology advisory services, including financial technology or "FinTech" services.

The Complainant provided screenshots of the Respondent's website at <accentureinfinity.com>, which demonstrate that the Respondent is holding itself out under the famous ACCENTURE trademark using the name <accentureinfinity.com> and advertising a "...Better Way to Trade & Invest" and mobile trading services and "investment packages that are related to, or have the potential to compete with the Complainant's financial services".

Using a confusingly similar domain name to offer competing goods and services is not a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. See *DPDgroup International Services GmbH* & Co. KG v. Domain Admin, Privacy Protect, LLC / Richard Bothne, WIPO Case No. <u>D2018-2565</u>.

The Respondent's activities under the website at the Domain Name constitute passing off, in that the Respondent is trying to pass itself off as the Complainant. The websites, "www.accentureinfinity.com/about" and "www.accentureinfinity.com/about#pricing", solicit personal information and contain a prompt to "Invest now", which suggests that the Respondent is using the ACCENTURE trademark to trick consumers into sending money to the Respondent. See Accenture Global Services Limited v. Privacidad Whois, Privacidad Whois sl / Domains By Proxy, LLC / Alfonso Galiana Iglesias / Accenture Espana Dominios Externos, WIPO

Case No. <u>D2018-2213</u>, quoting Section 2.13.1 of the <u>WIPO Overview 3.0</u>: "Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals,... impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent". , See *also Accenture Global Services Limited v. Steffen Bartsch/crypto earn*, WIPO Case No. <u>D2021-0505</u>, ordering a transfer of the <accenture-investment.com> domain name to the Complainant after the Panel found that "[r]espondent has engaged in a dishonest impersonation of the Complainant to mislead Internet users as to the origin of the disputed domain name and connected website and attract them to the [r]espondent's website to solicit purported investments in encrypted currencies. The [r]espondent is passing off its services as those of the Complainant. Such use does not amount to a *bona fide* offering of goods or services, or to a legitimate noncommercial or fair use of the disputed domain name, within the meaning of paragraphs 4(c)(i) and (iii) of the Policy."

The Respondent is not making a legitimate noncommercial or fair use of the Domain Name, and it appears that the Respondent has chosen the Domain Name to falsely pose as the Complainant for financial gain, to trade off the reputation and goodwill associated with the Complainant's ACCENTURE Marks, and to misleadingly divert Internet traffic from the Complainant's official website. See *DPDgroup International Services GmbH & Co. KG v. Domain Admin, Privacy Protect, LLC / Richard Bothne,* WIPO Case No. <u>D2018-2565</u>, finding passing off from "evidence that the Respondent has used the site attached to the Domain Name to point to competing services which are not connected with the Complainant. The usage of the Complainant's DPD mark and its box logo, which has a reputation in relation to parcel delivery services by the Respondent for similar services as the Complainant, is not fair [use] as the site does not make it clear that there is no commercial connection with the Complainant. As such[,] it cannot amount to the *bona fide* offering of services."

In summary, there is no indication that the Respondent is making a legitimate, noncommercial or fair use of the Domain Name without intent for commercial gain. The Respondent deliberately chose a Domain Name that is essentially identical to the Complainant's ACCENTURE trademark and appears to be posing as the Complainant, or attempting to be associated or affiliated with the Complainant.

The Respondent Registered and is Using the Domain Name in Bad Faith

The Policy establishes that, for the purposes of Paragraph 4(a)(iii), "bad faith" registration and use of a domain name can be established by a showing of circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to respondent's website or other online location, by creating a likelihood of confusion with a complainant's mark as to source, sponsorship, affiliation or endorsement of the respondent's website or location, or of a product or service on the respondent's website or location.

The Respondent had constructive notice that the ACCENTURE mark was a registered trademark in the United States and many other jurisdictions worldwide.

When considering the style and structure of the website at the Domain Name, the Respondent's bad faith use and registration is further evident in the fact that the Respondent appears to be connected with additional domain names and websites, where the Respondent appears to be conducting near-identical activities relating to the offering of online trading and investment packages under other domain names with nearly identical websites. The Complainant notes that the domain names, <cryptoxps.com>, <kreedinvest.com>, <adtexchange.com>, and <ibank-mobi.com>, are being used for websites that are identical to the website that appears at the disputed Domain Name, all of which encourage visitors to invest money with the site provider to pass itself off as the Complainant. See *Subur Tiasa Holdings Berhad v. Yeh, Charles* (WIPO Case No. D2016-1174), finding bad faith when the respondent provides "...almost identical websites which incorporate the names of well-known regional companies... shows a clear intention on the part of the Respondent to attract for commercial gain by confusing and deliberately misleading Internet users who are looking for the Complainant or its products and services to click onto the Website that it is connected to."

Given the Complainant's worldwide reputation and the ubiquitous presence of the ACCENTURE Marks on the Internet, the Respondent was or should have been aware of the ACCENTURE Marks long prior to registering the Domain Name. See *Caesars World, Inc. v. Forum LLC* (WIPO Case No. D2005-0517), finding the Respondent registered the domain name CAESARSPALACEPOKER.COM in bad faith after it knew or should have known about the Complainant's trademarks); See *also Accenture Global Services Limited v. ICS Inc./PrivacyProtect.org, supra*, finding that it was unlikely that the respondent was not aware of the Complainant and its ACCENTURE mark at the time the Domain Name was registered because the Complainant demonstrated that its mark is well-known globally and is vested with significant goodwill.

As noted above, the Respondent is using the Domain Name to mislead Internet users who are searching for the Complainant, but instead reach the Respondent's Domain Name, where the Respondent is holding itself out as the Complainant or holds itself out as offering competing good and services with, or have the potential to compete with, the Complainant's goods and services. These competing uses of the Domain Name are a disruption of the Complainant's business and are in bad faith pursuant to Policy ¶ 4(b)(iii).

Bad faith also exists under Policy ¶4(b)(iv) where a respondent uses a confusingly similar domain name to resolve to a website featuring products and services that compete directly with the complainant. See *Welcomemat Services, Inc. v. Michael Plummer Jr., MLP Enterprises Inc.* (WIPO Case No. D2017-0481), finding bad faith where "[t]he record shows that the Complainant's WELCOMEMAT marks were well established by the time the Respondent, a competitor, registered or acquired the Domain Names... Particularly as the Respondent used the Domain Names solely to redirect Internet users to its own website promoting competing services (also with no disclaimer of affiliation) the Response fails to dispel the logical inference that the Domain Names were chosen precisely for their value in suggesting an association with the Complainant or otherwise to attract persons seeking the Complainant."; See *also Accenture Global Services Limited v. Steffen Bartsch/crypto earn, supra,* ("[r]espondent is capitalizing on the reputation and goodwill of the Complainant and is passing off its services as those of the Complainant in order to generate an undue profit from the misdirected users.").

The Respondent has attempted intentionally to attract for commercial gain Internet users to its website by creating a likelihood of confusion with the Complainant's ACCENTURE Marks as to the source, sponsorship, affiliation or endorsement of the website at the Domain Name. This also appears designed to disrupt the business of a competitor. It appears that the Respondent registered and is using the Domain Name for the badfaith purpose of intentionally misleading the public to believe that the Respondent is associated or affiliated with the Complainant, and for financial gain.

Given the well-known status of the Complainant's ACCENTURE Marks, the Complainant's ownership of the domain <accenture.com>, and the Complainant's services related to financial services, there is no reason for the Respondent to have registered the Domain Name other than to trade off of the reputation and goodwill of the Complainant's Marks. See *Charles Jourdan Holding AG v. AAIM*, (WIPO Case No. D2000-0403), finding that the domain name in question is "so obviously connected with the Complainant and its products that its very use by someone with no connection with Complainant suggests opportunistic bad faith."

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has provided ample evidence that it has rights in ACCENTURE trademarks. It has a broad range of financial and other services and products and has trademarks and domain names that reflect this fact. The Domain Name adds the word "infinity" to the Complainant's trademark. The addition of the word "infinity" does not prevent a finding that the Domain Name is confusingly similar to the ACCENTURE

trademark, because the trademark remains recognizable within the Domain Name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("<u>WIPO Overview 3.0</u>"), section 1.8. Further, the gTLD ".com" is a standard registration requirements and as such, may be disregarded for purposes of the first element. <u>WIPO Overview 3.0</u>, section 1.11.

The Domain Name is confusingly similar to the Complainant's trademarks in which the Complainant has rights. The Panel concludes that the Complainant has established the requirements of Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

As noted above, the Complainant states:

Consistent with Paragraph 4(c) of the Policy, a respondent can demonstrate a legitimate interest in a domain name by proving one of the following: (i) that before notice of the dispute, it had made demonstrable preparations to use the domain name in connection with a *bona fide* offering of goods or services; (ii) it is commonly known by the domain name; or (iii) it is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain, to misleadingly divert consumers or to tarnish the trademarks of another.

It is apparent on the evidence that the Respondent meets none of these criteria.

An examination of the screen shots provided by the Complainant shows clearly that the Respondent is not using the Domain Name in connection with a *bona fide* offering of goods or services. It seeks to lure customers using a site that ostensibly offers services identical to those offered by the Complainant. There is no evidence that apart from this activity, the Respondent is known by the Domain Name. It clearly is making a commercial use of the Domain Name to mislead and divert potential customers of the Complainant. The composition of the Domain Name itself is such to carry a risk of implied affiliation that cannot constitute fair use, <u>WIPO Overview 3.0</u>, section 2.5.1.

The Respondent does not have rights to or a legitimate interest in the Domain Name. The Panel concludes that the Complainant has established the requirements of Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

As noted above, the Complainant states:

The Policy establishes that, for the purposes of Paragraph 4(a)(iii), "bad faith" registration and use of a domain name can be established by a showing of circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to respondent's website or other online location, by creating a likelihood of confusion with a complainant's mark.

On the evidence, it is clear that the Respondent intentionally is using the Domain Name to attract, for commercial gain, potential customers of the Complainant by creating a likelihood of confusion.

The Domain Name was registered over 20 years after the Complainant began using the trademark ACCENTURE. Using the ACCENTURE Marks, the Complainant has established a worldwide business and reputation. The Respondent clearly knew of the Complainant and its rights and sought to gain from using a confusingly similar Domain Name to mislead Internet users to its website. That is a bad faith registration and use.

The Panel concludes that the Complainant has established the requirements of Policy paragraph 4(a)(iii).

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 <accentureinfinity.com> be transferred to the Complainant.

/Edward C. Chiasson Q.C./ Edward C. Chiasson Q.C. Sole Panelist

Date: August 8, 2022