

ADMINISTRATIVE PANEL DECISION

Experian Information Solutions, Inc. v. Roland Lewis
Case No. D2022-3724

1. The Parties

Complainant is Experian Information Solutions, Inc., United States of America (“United States”), represented by Arnold & Porter Kaye Scholer LLP, United States.

Respondent is Roland Lewis, United States.

2. The Domain Name and Registrar

The disputed domain name <securityexperianlab.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 6, 2022. On October 6, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same date, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain name which differed from named Respondent (Privacy Service Provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complainant on October 18, 2022 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 October 23, 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 Respondent of the Complaint, and the proceedings commenced on October 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 16, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on November 25, 2022.

The Center appointed Phillip V. Marano as the sole panelist in this matter on December 15, 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

Complainant is one of the world's largest information and consumer credit services companies and maintains operations throughout the United States. Complainant offers its consumer credit services through its official "experian.com" domain name and website. Complainant owns valid and subsisting registrations for the EXPERIAN trademark in the United States, including the trademark for EXPERIAN (Reg. No. 2,231,322), registered on March 16, 1999, with the earliest priority dating back to September 19, 1996.

Respondent registered the disputed domain name on June 7, 2022. At the time this Complaint was filed, the disputed domain name resolved to a putative cybersecurity blog featuring articles with titles like Hack Facebook Account Using Software ("Bruteforce Method") and 7 Tips To Help Protect Yourself From Online Fraud.

5. Parties' Contentions

A. Complainant

Complainant asserts ownership of the EXPERIAN trademark and has adduced evidence of trademark registrations in the United States, including the trademark for EXPERIAN (Reg. No. 2,231,322), registered on March 16, 1999, with the earliest priority dating back to September 19, 1996. The disputed domain name is confusingly similar to Complainant's EXPERIAN trademark, according to Complainant, due to the well-known nature of the EXPERIAN trademark, because the disputed domain name merely adds terms surrounding its incorporation of the identical EXPERIAN marks in their entirety, and because Respondent's addition of the words "security" and "lab" does not negate Respondent's intention to cause and opportunistically exploit inevitable Internet user confusion, especially where those terms relate to Complainant's business.

Complainant further asserts that Respondent lacks any rights or legitimate interests in the disputed domain name based on: the lack of any license or authorization between Complainant and Respondent; the lack of any evidence that Respondent is known by the term "Experian"; Complainant's longstanding use of the EXPERIAN trademark, predating registration of the disputed domain name by more than two decades; Respondent's knowledge of Complainant's EXPERIAN trademark prior to registration of the disputed domain name; and Respondent's use of the disputed domain name to Respondent's own website.

Complainant argues that Respondent has registered and used the disputed domain name in bad faith for numerous reasons, including: the well-known nature of the EXPERIAN trademark; Complainant's longstanding registration and use of the EXPERIAN trademark, predating registration of the disputed domain name by more than two decades, and constituting constructive notice; Respondent's knowledge of Complainant's EXPERIAN trademark prior to registration of the disputed domain name; Respondent's use of the disputed domain name to create initial interest confusion to attract Internet users to Respondent's website; and Respondent's use of a privacy registration service.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

To succeed in its Complaint, Complainant must establish in accordance with paragraph 4(a) of the Policy:

- i. The disputed domain name is identical or confusingly similar to a trademark in which Complainant has rights;

- ii. Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- iii. The disputed domain name has been registered and is being used in bad faith.

Although Respondent did not reply to Complainant's contentions, the burden remains with Complainant to establish by a balance of probabilities, or a preponderance of the evidence, all three elements of paragraph 4(a) of the Policy. A respondent's default would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true. UDRP panels have been prepared to draw certain inferences in light of the particular facts and circumstances of the case, *e.g.* where a particular conclusion is *prima facie* obvious, where an explanation by the respondent is called for but is not forthcoming, or where no other plausible conclusion is apparent. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), sections 4.2 and 4.3; see also *The Vanguard Group, Inc. v. Lorna Kang*, WIPO Case No. [D2002-1064](#) ("The Respondent's default does not automatically result in a decision in favor of the complainant. The Complainant must still prove each of the three elements required by Policy paragraph 4(a)").

A. Identical or Confusingly Similar

Ownership of a nationally or regionally registered trademark serves as *prima facie* evidence that Complainant has trademark rights for the purposes of standing to file this Complaint. [WIPO Overview 3.0](#), section 1.2.1. Complainant submitted evidence that the EXPERIAN trademark has been registered in the United States with priority dating back to September 19, 1996. Thus, the Panel finds that Complainant's rights in the EXPERIAN trademark have been established pursuant to the first element of the Policy.

The only remaining question under the first element of the Policy is whether the disputed domain name is identical or confusingly similar to Complainant's EXPERIAN trademark.

In this Complaint, the disputed domain name is confusingly similar to Complainant's EXPERIAN trademark because, disregarding the ".com" generic Top-Level Domain ("gTLD"), the entirety of the trademark is contained within the disputed domain name. [WIPO Overview 3.0](#), section 1.7 ("This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the domain name ... [I]n cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar..."). In regards to gTLDs, such as ".com" in the disputed domain name, they are generally viewed as a standard registration requirement and are disregarded under the first element. [WIPO Overview 3.0](#), section 1.11.1.

The combination with the terms "security" and "lab" does not prevent a finding of confusing similarity between Complainant's EXPERIAN trademark and the disputed domain name. [WIPO Overview](#), section 1.8 (Additional terms "whether descriptive, geographic, pejorative, meaningless, or otherwise" do not prevent a finding of confusing similarity under the first element"); see also *AT&T Corp. v. WorldclassMedia.com*, WIPO Case No. [D2000-0553](#) ("Each of the domain names in dispute comprises a portion identical to [the ATT trademark] in which the Complainant has rights, together with a portion comprising a geographic qualifier, which is insufficient to prevent the composite domain name from being confusingly similar to Complainant's [ATT trademark]"), *OSRAM GmbH v. Cong Ty Co Phan Dau Tu Xay Dung Va Cong Nghe Viet Nam*, WIPO Case No. [D2017-1583](#) ("[T]he addition of the letters 'hbg' to the trademark OSRAM does not prevent a finding of confusing similarity between the Disputed Domain Name and the said trademark."). Indeed, the Panel concurs with Complainant that the additional terms "security" and "lab" do not dispel the confusing similarity between Complainant's EXPERIAN and the disputed domain name.

In view of the foregoing, the Panel concludes that Complainant has established the first element of the Policy.

B. Rights or Legitimate Interests

Complainant must make out a *prima facie* case that Respondent lacks rights or legitimate interests in the disputed domain name, shifting the burden of production on this element to Respondent to come forward with evidence demonstrating such rights or legitimate interests. Where, as in this Complaint, Respondent fails to come forward with any relevant evidence, Complainant is deemed to have satisfied the second element of the Policy. [WIPO Overview](#), section 2.1.

It is evident that Respondent is not commonly known by the disputed domain name or Complainant's EXPERIAN trademark.

Based on the undisputed facts and circumstances in the record before it, the Panel finds that Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services. This is especially the case where a disputed domain name is so obviously connected with a complainant and its services, the very use, let alone attempts to monetize or sell, by a registrant with no connection to a complainant suggests opportunistic bad faith. The Panel concludes from the record (and in large part from Respondent's own website content) that Respondent had Complainant's EXPERIAN trademark in mind when registering the disputed domain name, and that Respondent most likely registered domain name in order to exploit and profit from Complainant's trademark rights. Indeed, a respondent who knowingly adopted a third party's well-known mark as a domain name cannot claim the benefit of paragraph 4(c)(i) of the Policy to establish rights to the domain name based on its mere use of the domain name to offer goods or services prior to the notice of a dispute. *Scania CV AB v. Leif Westlye*, WIPO Case No. [D2000-0169](#); see also *Drexel University v. David Brouda*, WIPO Case No. [D2001-0067](#) (rights or legitimate interests cannot be created where the user of the domain name at issue would not choose such a name unless he was seeking to create an impression of association with the complainant).

In view of the foregoing, the Panel concludes that Complainant has established the second element of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy proscribes the following non-exhaustive circumstances as evidence of bad faith registration and use of the disputed domain name:

- i. Circumstances indicating that Respondent has registered or Respondent has acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to Complainant who is the owner of the trademark to a competitor of that Complainant, for valuable consideration in excess of Respondent's documented out of pocket costs directly related to the disputed domain name; or
- ii. Respondent has registered the disputed domain name in order to prevent the owner of the trademark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- iii. Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- iv. By using the disputed domain name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

Where parties are both located in the United States and the complainant has obtained a federal trademark registration pre-dating a respondent's domain name registration, panels have applied the concept of constructive notice, subject to the strength or distinctiveness of the complainant's trademark, or

circumstances that corroborate respondent's awareness of the complainant's trademark. [WIPO Overview 3.0](#), section 3.2.2. In this Panel's view, when the disputed domain name was registered on June 7, 2022, Respondent had constructive knowledge of Complainant's pre-existing rights in Complainant's EXPERIAN trademark under United States law. See e.g., *Champion Broadcasting System, Inc. v. Nokta Internet Technologies*, WIPO Case No. [D2006-0128](#) (Applying the principle of constructive notice where both parties are located in the United States). Indeed, circumstances in this case corroborate Respondent's awareness of Complainant and Complainant's EXPERIAN trademark, including the content of Respondent's putative cybersecurity blog, which focuses on information related to Complainant's consumer credit and other information services.

Registration of the disputed domain name with intent to profit by exploiting Complainant's trademark and selling that domain name constitutes axiomatic bad faith registration and use under paragraph 4(b)(i) of the Policy. As in this case, bad faith is evident where Respondent clearly has knowledge of Complainant's trademarks, the trademarks at issue well predate registration of the disputed domain name, the website content associated with the disputed domain name targets Complainant's industry, and Respondent offers to sell the disputed domain name to the highest bidder or otherwise to the general public. [WIPO Overview 3.0](#), section 3.1.1. Specifically, domain name registration data for the disputed domain name, as submitted into evidence by Complainant, has been configured with an accompanying solicitation to the general public, reading "securityexperianlab.com is already registered. Interested in buying it? Make an Offer." This open solicitation to the general public is clear evidence of Respondent's opportunistic bad faith intention to acquire and sell the disputed domain name, which is identical or confusingly similar to Complainant's EXPERIAN trademark.

In addition, prior UDRP panel determinations agree, the use of false registration data in connection with a disputed domain name further supports a finding of bad faith registration and use. See e.g. *Action Instruments, Inc. v. Technology Associates*, WIPO Case No. [D2003-0024](#) (Providing false contact information violates paragraph 2 of the Policy, which requires a registrant to represent that the statements it "made in [its] Registration Agreement are complete and accurate". Maintaining that false contact information in the WHOIS records (which can easily be updated at any time) after registration constitutes bad faith use of the domain name because it prevents a putative complainant from identifying the registrant and investigating the legitimacy of the registration."); *Royal Bank of Scotland Group v. Stealth Commerce*, WIPO Case No. [D2002-0155](#); *Home Director, Inc. v. HomeDirector*, WIPO Case No. [D2000-0111](#). To this end, service of a physical copy of the Complaint to the street address provided by Respondent in the registration data for the disputed domain name was returned to the Center as undeliverable due to a "bad address".

And finally, Respondent's website (as screen captured and offered into evidence by Complainant) was subsequently deactivated, presumably by Respondent, absent any attempt by Respondent to explain or justify its use of the disputed domain name. The Panel takes this as corroborating evidence of Respondent's bad faith.

In view of the foregoing, the Panel concludes 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 disputed domain name, <securityexperianlab.com> be transferred to Complainant.

/Phillip V. Marano/

Phillip V. Marano

Sole Panelist

Date: January 10, 2023