

ADMINISTRATIVE PANEL DECISION

Signify Health, LLC v. Jocelynn Wyzkiewicz
Case No. D2023-3182

1. The Parties

Complainant is Signify Health, LLC, United States of America (“United States” or “U.S.”), represented by Hitchcock Evert LLP, United States.

Respondent is Jocelynn Wyzkiewicz, United States.

2. The Domain Name and Registrar

The disputed domain name <signifyhealthjobs.com> (the “Domain Name”) is registered with Squarespace Domains II LLC (the “Registrar”) ¹.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 24, 2023. On July 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 25, 2023, 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 (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to Complainant on July 27, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed the first amended Complaint on July 27, 2023. In response to a notification by the Center that the Complaint was administratively deficient, Complainant filed the second amended Complaint to the Complaint on August 8, 2023.

The Center verified that the Complaint together with the first and the second amended Complaints 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”).

¹ The Complaint was filed identifying the registrar as Google LLC for the disputed domain name <signifyhealthjobs.com>. On October 6, 2023, Google LLC confirmed that the disputed domain name is registered with Squarespace Domains II LLC following a purchase agreement. Google LLC has confirmed that both Squarespace Domains II LLC and Google LLC will comply with the UDRP and the Decision will be implemented.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on August 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 29, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on August 31, 2023.

The Center appointed John C. McElwaine as the sole panelist in this matter on September 20, 2023. 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 provider of in-home, technology-enabled healthcare services. Relevant to this matter, Complainant is the owner of U.S. Registration No. 6,097,023 for the word mark SIGNIFY HEALTH and U.S. Registration No. 6,097,028 for the mark SIGNIFY HEALTH (& design) both registered on July 7, 2020, in International Classes 35, 42, 44, and 45 and reciting, "providing health care data analytics to health plans and health care providers for the purposes of patient evaluation, care coordination and management, and projected health care utilization;" "conducting patient health care evaluations, care coordination and management, management of complex chronic medical conditions, preventative care, and treatment;" and "coordination of medical services, social services and personal care for older individuals." (the "SIGNIFY HEALTH Mark").

The Domain Name was registered on July 12, 2023. At the time of filing the Complaint, the Domain Name did not resolve to an accessible website but was used to send emails claiming to be from an employee of Complainant.

5. Parties' Contentions

A. Complainant

As background, Complainant asserts that it is a leading provider of in-home, technology-enabled healthcare services, which provides comprehensive health assessments and value based care arrangements. Complainant further asserts that these services are provided by deploying an intelligent technology platform and a nationwide network of physicians and nurses into home and institutional settings, and that these services close gaps in care and documentation for high-risk patients.

With respect to the first element of the Policy, Complainant points out that it owns two United States trademark registrations for the SIGNIFY HEALTH Mark. Complainant alleges that the Domain Name is identical to Complainant's registered trademarks, differing from Complainant's own domain name (<signifyhealth.com>) by the addition of the generic term "jobs", which Respondent added to imply that the Domain Name is related to the purpose of hiring personnel.

With respect to the second element of the Policy, Complainant alleges that Respondent registered the Domain Name to use as an email addresses to perpetrate a fraudulent employment scheme. Specifically, Complainant provided evidence that Respondent sent emails using the names of several of Complainant's executives in phishing emails to prospective applicants. Complainant concludes that this proves that Respondent had no intellectual property rights or any other legitimate interests in the Domain Name.

With respect to the third element of the Policy, Complainant re-alleges that Respondent used the Domain Name for scheme to attract, for commercial gain, unsuspecting applicants into its criminal activities and divulging sensitive personal and financial information. Complainant asserts that this amounts to registration and use of the Domain Name in bad faith.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Although Respondent defaulted, to succeed in this proceeding, paragraph 4(a) of the Policy requires Complainant to prove its assertions with evidence demonstrating:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) 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.

Because of Respondent's default, the Panel may accept as true the reasonable factual allegations stated within the Complaint and may draw appropriate inferences therefrom. See *St. Tropez Acquisition Co. Limited v. AnonymousSpeech LLC and Global House Inc.*, WIPO Case No. [D2009-1779](#); *Bjorn Kassoe Andersen v. Direction International*, WIPO Case No. [D2007-0605](#); and see also paragraph 5(f) of the Rules ("If a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint"). Having considered the Complaint, the Policy, the Rules, the Supplemental Rules, and applicable principles of law, the Panel's findings on each of the above-cited elements are as follows.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires Complainant show that the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights. Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2. On this point, Complainant has provided evidence that it is the owner of two United States registrations for the SIGNIFY HEALTH Mark.

The Domain Name consists of Complainant's registered SIGNIFY HEALTH Mark with the addition of the word, "jobs". The addition of other terms to a trademark in a domain name does not avoid a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8 ("Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element."); *Mastercard International Incorporated v. Dolancer Outsourcing Inc.*, WIPO Case No. [D2012-0619](#); *Air France v. Kitchkulture*, WIPO Case No. [D2002-0158](#); and *DHL Operations B.V. and DHL International GmbH v. Diversified Home Loans*, WIPO Case No. [D2010-0097](#). Here, the SIGNIFY HEALTH Mark is clearly recognizable in the Domain Name.

Accordingly, the Panel finds that the Domain Name is confusingly similar to Complainant's SIGNIFY HEALTH Mark in which Complainant has valid trademark rights. Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under the Policy, paragraph 4(a)(ii), Complainant has the burden of establishing that Respondent has no rights or legitimate interests in the Domain Name. Complainant needs only make a *prima facie* showing on this element, at which point the burden of production shifts to Respondent to present evidence that it has rights or legitimate interests in the Domain Name. If Respondent has failed to do so, then Complainant is

deemed to have satisfied its burden under paragraph 4(a)(ii) of the Policy. See *Vicar Operating, Inc. v. Domains by Proxy, Inc. / Eklun Bot Systems, Inc.*, WIPO Case No. [D2010-1141](#); see also *Nicole Kidman v. John Zuccarini, d/b/a Cupcake Party*, WIPO Case No. [D2000-1415](#); *Inter-Continental Hotels Corporation v. Khaled Ali Soussi*, WIPO Case No. [D2000-0252](#).

Complainant alleged that a false name and address was used as the owner of the Domain Name. Further, Complainant contends that it has never authorized Respondent to use the SAREPTA Marks in any manner and that Respondent is not commonly known by the Domain Name. Furthermore, Complainant asserts that Respondent has not demonstrated any attempt to use the Domain Name in connection with a *bona fide* offering of goods or services, instead, Complainant alleges that the Domain Names were used in connection with a fraudulent employment offer scheme. This is sufficient to make a *prima facie* showing for this element of the Policy.

The Policy, paragraph 4(c), provides a non-exhaustive list of circumstances in which a respondent could demonstrate rights or legitimate interests in a contested domain name:

- “(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

As an initial matter, there is no evidence that Respondent is commonly known by the Domain Name. The Panel notes Complainant asserts that a false name and contact information was probably supplied by Respondent in registering the Domain Name. The Panel therefore finds, based on the record and the lack of evidence otherwise, that Respondent is not commonly known by the Domain Name. See *Moncler S.p.A. v. Bestinfo*, WIPO Case No. [D2004-1049](#) (“the Panel notes that the respondent’s name is “Bestinfo” and that it can therefore not be “commonly known by the Domain Name.”)

While the Domain Name does not appear to have ever resolved to an active website, such non-use clearly does not reflect any *bona fide* offering of goods or services. However, disregarding the inactive website, the Panel finds that the purpose of registering the Domain Name was to engage in a fraudulent employment offer scheme, which is not a *bona fide* offering of goods or services. [WIPO Overview 3.0](#), section 2.13.1 (“Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent.”); see also, *Startup Group v. Whois Agent, Domain Protection Services, Inc. / Dominique Geffroy*, WIPO Case No. [D2020-3303](#) (finding an employment offer scam to be an example of use of a domain name for the illegitimate purpose of impersonating the complainant in the furtherance of a fraudulent scheme).

Based on the foregoing, Complainant has made a *prima facie* showing of Respondent’s lack of any rights or legitimate interests and Respondent has failed to come forward to rebut that showing. As provided for by paragraph 14 of the Rules, the Panel may draw such inference from Respondent’s default as it considers appropriate.

The panel finds that Respondent does not have rights or legitimate interests in the Domain Name and that Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under paragraph 4(a)(iii) of the Policy, Complainant must show that Respondent registered and is using the Domain Name in bad faith. A non-exhaustive list of factors constituting bad faith registration and use is set out in paragraph 4(b) of the Policy.

Here, the evidence shows that Respondent registered the Domain Name to perpetrate an employment offer scheme. Complainant's SIGNIFY HEALTH Mark was intentionally chosen when the Domain Name was registered with the intent to impersonate Complainant for the purpose of misleading unsuspecting member of the public into providing sensitive personal and financial information to Respondent. Knowledge of Complainant's business and its SIGNIFY HEALTH Mark is established by the use of real names of several of Complainant's executives and use of Complainant's logo in emails sent to unsuspecting job seekers. In light of the evidence demonstrating the fraudulent use of the Domain Name, there could be no other legitimate explanation except that Respondent intentionally registered the Domain Name to cloak its actions and deceive recipients into believing the emails were from Complainant. The Domain Name does not appear to have been registered for any other purpose as the Domain Name does not resolve to an active website. Such activity constitutes a disruption of Complainant's business and also establishes bad faith registration and use. *Securitas AB v. Whois Privacy Protection Service, Inc. / A. H.*, WIPO Case No. [D2013-0117](#) (finding bad faith based upon the similarity of the disputed domain name and the complainant's mark, the fact that the complainant is a well-known global security company and the fact that the disputed domain name is being used to perpetrate an email scam.) In addition, registering a domain name with false contact details is commonly held to be bad faith under the Policy. See *Hermes International v. Jack Yong*, WIPO Case No. [D2017-1959](#) ("the fact of a non-existent postal address is difficult to explain"); *TBWA Worldwide, Inc. v. Karim Bendali*, WIPO Case No. [D2019-1932](#) (the postal address revealed by the Registrar was not accurate).

The use of the Domain Name to conduct fraud constitutes a disruption of Complainant's business and also establishes bad faith registration and use pursuant to paragraph 4(b)(iii) of the Policy. *Securitas AB v. Whois Privacy Protection Service, Inc. / A. H.*, WIPO Case No. [D2013-0117](#) (Finding bad faith based upon the similarity of the disputed domain name and the complainant's mark, the fact that the complainant is a well-known global security company and the fact that the disputed domain name is being used to perpetrate an email scam.) As discussed above, Respondent used several other *indicia* of Complainant in addition to the Domain Name when communicating with third parties with the fraudulent purpose of misleading such job seekers. In light of the actions undertaken by Respondent, it is inconceivable that Respondent coincidentally selected the Domain Name without any knowledge of Complainant. See *e.g.*, *Arkema France v. Steve Co., Stave Co Ltd.*, WIPO Case No. D2017 1632.

Moreover, it does not matter that a website was not resolving from the Domain Name. In finding a disputed domain name used only for an email scam was bad faith, the panel in *Kramer Law Firm, P.A. Attorneys and Counselors at Law v. BOA Online, Mark Heuvel*, WIPO Case No. [D2016-0387](#), pointed out that numerous UDRP panels have found such impersonation to constitute bad faith, even if the relevant domain names are used only for email communications. See, *e.g.*, *Terex Corporation v. Williams Sid, Partners Associate*, WIPO Case No. [D2014-1742](#) ("Respondent was using the disputed domain name in conjunction with...an email address for sending scam invitations of employment with Complainant"); and *Olayan Investments Company v. Anthono Maka, Alahaji, Koko, Direct investment future company, ofer bahar*, WIPO Case No. [D2011-0128](#) ("although the disputed domain names have not been used in connection with active web sites, they have been used in email addresses to send scam emails and to solicit a reply to an 'online location'").

For the reasons set forth above, the Panel holds that Complainant has met its burden under paragraph 4(a)(ii) of the Policy and has established that Respondent registered and is using the Domain Name in bad faith.

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 <signifyhealthjobs.com> be transferred to Complainant.

/John C McElwaine/

John C McElwaine

Sole Panelist

Date: October 7, 2023