

ADMINISTRATIVE PANEL DECISION

RedCap Technologies, LLC v. Dennis Sipiran
Case No. D2023-3273

1. The Parties

The Complainant is RedCap Technologies, LLC, United States of America, represented by Pranger Law P.C., United States of America.

The Respondent is Dennis Sipiran, United States of America.

2. The Domain Name and Registrar

The Disputed Domain Name <gatedredcap.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 July 29, 2023. On July 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 31, 2023, 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 (Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 9, 2023, 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 August 19, 2023.

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 August 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 10, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 15, 2023.

The Center appointed Colin T. O'Brien as the sole panelist in this matter on September 29, 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

The Complainant has operated an active website at “www.getredcap.com” since at least as early as August 12, 2016.

The Respondent registered <gatredcap.com> (the “Disputed Domain Name”) on March 22, 2023.

5. Parties’ Contentions

A. Complainant

Since 2016, the Complainant, under its REDCAP mark and through its website “www.getredcap.com”, has provided goods and services including software and application goods relating to the marketing and provision of automotive services to consumers which enable car maintenance service centers to perform numerous tasks related to service appointments and to provide related services more efficiently.

Through use of the REDCAP mark for more than seven years, the Complainant has accrued common law trademark rights in the mark. The REDCAP mark is a distinctive identifier which consumers associate with the Complainant’s goods and services. Evidence demonstrating the Complainant’s long trademark use and common law trademark rights include, without limitation, the following:

- The Complainant has continuously used the REDCAP mark to market its goods and services since at least 2016.
- The Complainant’s sales of goods and services offered under the REDCAP mark in 2022 was in the tens of millions of dollars (USD).
- The Complainant currently provides its goods and services offered under the REDCAP mark to several thousand car dealerships and service centers across the United States of America.
- Through the above-described sales and advertising, the REDCAP mark has become well-known to the Complainant’s target market and associated with the Complainant’s goods and services.
- The Complainant owns United States of America Trademark Application No. 98035806 for REDCAP, filed on June 9, 2023.

The Disputed Domain Name is an obvious typo variation of the Complainant’s domain name, differing by only a single letter, and makes a confusingly similar and identical use of the Complainant’s REDCAP mark. The Respondent’s intentional typo squatting of the Complainant’s domain name also supports a finding that the REDCAP mark has achieved significance as a source identifier for the Complainant.

The Respondent has no rights or legitimate interests in respect of a *bona fide* use of the Disputed Domain Name. The Respondent has never used the Disputed Domain Name to host any content created by the Respondent, rather it has only ever resolved to “parked” advertisements. This is yet further evidence that the Respondent has never made a *bona fide* use of the Disputed Domain Name. As more fully described below, the Respondent has no rights to use the REDCAP mark and only registered the Disputed Domain Name to perpetuate a fraudulent and illegal phishing scheme targeting at least one of the Complainant’s customers.

The Respondent registered the Disputed Domain Name and has used it in bad faith, as evidenced by emails sent from addresses associated with the Disputed Domain Name, which is a predictable typo of the Complainant’s domain name, <getredcap.com>. On or about March 23, 2023, the email address “[...]@gatredcap.com” was used to send multiple fraudulent requests for payment to at least one of the Complainant’s customers.

This fraudulent email was designed to appear as it was coming from one of the Complainant's employees, including use of the REDCAP mark. Further, the Respondent attached a fraudulent invoice to the email designed to appear as though it was coming from the Complainant, but substituting wire payment information to an illegitimate account that does not belong to the Complainant. The listed account belongs to the Respondent and was provided to illegally and fraudulently divert payments intended for the Complainant to the Respondent.

The Respondent's use of the Disputed Domain Name to send emails in furtherance of a fraudulent and illegal phishing scheme targeting the Complainant's customers is *prima facie* evidence of bad faith. Notably, the Respondent registered the Disputed Domain Name, which is an obvious typo variation of the Complainant's domain name, just one day before sending the above-described phishing emails.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated it owns common law trademark rights in the REDCAP trademark in the United States of America by virtue of its continuous use and sales mentioned above. See section 1.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). The addition of the term "gat" does not prevent a finding of confusing similarity as the Complainant's REDCAP mark is clearly recognizable in the Disputed Domain Name. See section 1.8 of the [WIPO Overview 3.0](#).

Accordingly, the Disputed Domain Name is confusingly similar to a mark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has presented a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and has not been commonly known by the Disputed Domain Name. The fact that the Respondent obtained the Disputed Domain Name which is a typo of the Complainant's primary domain name <getredcap.com> mark indicates that the Respondent sought to piggyback on the mark for illegitimate reasons, namely, to engage in a phishing scheme targeting customers of the Complainant.

After a complainant has made a *prima facie* case, the burden of production shifts to a respondent to present evidence demonstrating rights or legitimate interests in the domain name. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

Here, the Respondent has provided no evidence of any rights or legitimate interests in the Disputed Domain Name. Regardless, the use of a domain name for illegal activity can never confer rights or legitimate interests upon a respondent. [WIPO Overview 3.0](#), section 2.13.

In the absence of any evidence rebutting the Complainant's *prima facie* case indicating the Respondent's lack of rights or legitimate interests in respect of the Disputed Domain Name, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Disputed Domain Name was registered years after the Complainant first used its REDCAP mark.

The evidence provided by the Complainant makes it clear that the Respondent undoubtedly knew of the Complainant's REDCAP mark, and knew that it had no rights or legitimate interests in the Disputed Domain Name.

There is no benign reason for the Respondent to have registered the Disputed Domain Name that is confusingly similar to the Complainant's mark.

Currently, the Disputed Domain Name does not resolve to an active website, but this is immaterial and does not prevent a finding of bad faith as the Complainant has provided evidence that the Respondent has sent an email to a customer attempting to impersonate the Complainant to engage in some phishing attacks. See section 3.4 of the [WIPO Overview 3.0](#).

The Panel finds that the only plausible basis for registering and using the Disputed Domain Name have been in bad faith.

Accordingly, the Panel finds that the Disputed Domain Name has been registered and is being used 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 Disputed Domain Name <gatredcap.com> be transferred to the Complainant.

/Colin T. O'Brien/

Colin T. O'Brien

Sole Panelist

Date: October 15, 2023