

ADMINISTRATIVE PANEL DECISION

Accuserve Solutions, Inc. v. Kayley Crosby / Name Redacted
Case No. D2023-3990

1. The Parties

The Complainant is Accuserve Solutions, Inc., United States of America ("United States"), represented by Benesch, Friedlander, Coplan & Aronoff, LLP, United States.

The Respondents are Kayley Crosby, United States / Name Redacted¹.

2. The Domain Names and Registrar

The disputed domain names <accuservejobs.com> and <careers-accuserve.com> are registered with Squarespace Domains II LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 22, 2023. On September 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 27, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (CONTACT PRIVACY INC. CUSTOMER 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 28, 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 October 3, 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").

¹ The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent's name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on October 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 31, 2023. The Respondent did not submit any response. However, two email communications were received from a third party claiming identity theft on October 16 and 17, 2023. The Center informed the Parties of its commencement of Panel appointment on November 3, 2023.

The Center appointed Angela Fox as the sole panelist in this matter on November 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

The Complainant is a full-service managed repair platform based in the United States, which provides concierge-style property restoration services. It is the owner of inter alia United States Trademark Registration No. 7,029,225 registered on April 18, 2023, for the word mark, ACCUSERVE in connection with business marketing, screening, and referral services, property insurance claims processing and insurance administration services, and property damage restoration and mitigation services.

Since at least 2021, the Complainant has operated its main website promoting its business at the domain name <accuserve.com>.

The disputed domain name <accuservejobs.com> was registered on August 1, 2023, and the disputed domain name <careers-accuserve.com> was registered on August 17, 2023. Neither link to any active website, but annexed to the Complaint were copies of emails showing that the disputed domain names have been used to impersonate the Complainant and its employees to perpetuate an online employment scam involving the sending of deceptive emails and phishing, identity theft, or malware distribution to the Complainant's actual or prospective employees and job applicants.

5. Parties' Contentions

A. Complainant

The Complainant submits that the disputed domain names are identical or confusingly similar to the Complainant's ACCUSERVE trademark. The disputed domain names both incorporate the entirety of the Complainant's registered ACCUSERVE mark, and the Complainant's mark is easily recognizable within the disputed domain names. The generic terms "jobs" and "careers" does not prevent a finding of confusing similarity.

The Complainant argues that the Respondents have no rights or legitimate interests in the disputed domain names. The Respondents do not own any trademark rights in ACCUSERVE, nor have they been commonly known by it. They have not been authorized by the Complainant to use the ACCUSERVE mark. They have not been making any *bona fide* commercial use of the disputed domain names, nor are they making any legitimate noncommercial or fair use of them. The Respondents' use of the disputed domain names to impersonate the Complainant and its employees in order to perpetrate fraud does not confer rights or legitimate interests on the Respondents.

Finally, the Complainant submits that the Respondents registered and have been using the disputed domain names in bad faith. The Complainants submit that the Respondents' bad faith is manifest since it is clear that, with actual knowledge of the Complainant's trademark rights, the Respondents have been intentionally disrupting the Complainant's business and creating confusion among potential recruits between the Complainant's employment opportunities and the Respondents' illegal scheme, in furtherance of their fraudulent activities.

B. Respondents

The Respondents did not reply to the Complainant's contentions and are in default. No exceptional circumstances explaining the default have been put forward. Therefore, in accordance with paragraphs 14 (a) and (b) of the Rules, the Panel will decide the Complaint and shall draw such inferences as it considers appropriate from the Respondent's default.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the panel finds that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

All three elements must be present before a complainant can succeed in an administrative proceeding under the Policy.

A. Procedural Issue: Consolidation of Multiple Respondents

The Complainant requested the consolidation of the Respondents. According to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2, "Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario".

The evidence provided shows that both disputed domain names have been used to send employment scam emails under the name "Nick Sullivan". The emails sent from both disputed domain names are nearly identical and contain the exact same signature. Additionally, the composition of the disputed domain names is similar, containing the Complainant's trademark and an additional term related to employment, and were registered through the same Registrar.

The Panel thus concludes that on the balance of probabilities it is likely that the disputed domain names are under common control. The two Respondents did not react to Complainant's request for consolidation. The Panel decides that consolidation is in order, also in view of the fact that it is equitable and procedurally efficient to allow consolidation.

B. Identical or Confusingly Similar

The Complainant has proved that it owns registered trademark rights in ACCUSERVE.

The disputed domain name incorporates the Complainant's ACCUSERVE trademark in its entirety, adding only the words "jobs" and "careers" before the generic Top-Level Domain ".com". As noted in the [WIPO Overview 3.0](#), at section 1.11.1, the Top-Level Domain suffix is a standard registration requirement and as such is typically disregarded under the first element test of confusing similarity.

Under para 1.7 of the [WIPO Overview 3.0](#), "in 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 to that mark for purposes of UDRP standing."

The Panel finds that the disputed domain names are confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has never authorized the Respondents to use its trademarks, nor is there any evidence that the Respondents have ever been commonly known by the disputed domain names or have acquired any trademark rights in the ACCUSERVE mark.

The Complainant has provided evidence that the Respondents have used the disputed domain names in connection with fraudulent impersonation of the Complainant and the obtaining of sensitive personal information from online jobseekers under that deceptive guise. In carrying out these deliberate acts of deception, it is clear that the Respondents have used the disputed domain names in connection with illegitimate ends. Such activities point to an absence of any rights or legitimate interests on the part of the Respondents, and the Respondents have made no effort to rebut the Complainant's assertions in this regard.

The Panel finds that the Respondents have no rights or legitimate interests in the disputed domain names.

C. Registered and Used in Bad Faith

Under paragraph 4(b)(iv) of the Policy, the panel may find both registration and use in bad faith where there is evidence that by using the domain name, a respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with a complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on it.

In this case, the Complainant has shown evidence that the Respondents have used the disputed domain names in connection with a scheme to impersonate the Complainant and to falsely offer job interviews and opportunities to online jobseekers in order to obtain sensitive personal information. The Complainant alleges that these deliberate acts of deception were carried out with the intention of conducting a phishing scheme. Such activities amount to intentional use of the disputed domain names to attract, for commercial (and indeed illegitimate) gain, Internet users to an online location of the Respondent. The Respondents have not responded to the Complaint and have made no effort to rebut these very serious allegations against them.

The Panel also notes [WIPO Overview 3.0](#), section 3.1.4, which states that "the use of a domain name for per se illegitimate activity such as... phishing... is manifestly considered evidence of bad faith"; and [WIPO Overview 3.0](#), section 3.4, which states that "use of a domain name for purposes other than to host a website may constitute bad faith," such as "sending email [or] phishing," especially where "the respondent's use of the domain name [is] to send deceptive emails" for purposes such as "to solicit payment of fraudulent invoices by the complainant's actual or prospective customers".

Taking all of the above into account, the Panel finds that the disputed domain names were registered and have been 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 names, <accuservejobs.com> and <careers-accuserve.com>, be transferred to the Complainant.

/Angela Fox/

Angela Fox

Sole Panelist

Date: December 11, 2023