

ADMINISTRATIVE PANEL DECISION

LinkedIn Corporation v. Curtis kessel
Case No. D2023-4431

1. The Parties

Complainant is LinkedIn Corporation, United States of America (“United States”), represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States.

Respondent is Curtis kessel, United States.

2. The Domain Name and Registrar

The Disputed Domain Name <ryanroslansky-linkedin.com> is registered with Network Solutions, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 25, 2023. On October 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On October 30, 2023, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 November 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 21, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on November 22, 2023.

The Center appointed Purvi Patel Albers as the sole panelist in this matter on November 28, 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, a publicly traded company founded in 2003, is one of the world's largest professional networking website. Complainant's website has more than 900 million members in more than 200 countries and regions. Complainant employs more than 19,000 full-time employees in 36 offices around the world and operates websites in 26 languages.

Complainant owns the domain name <linkedin.com>, which it registered on November 2, 2002. The domain name is used as Complainant's primary website. Complainant also owns at least 235 trademark registrations in least 62 jurisdictions that consist of or include the mark LINKEDIN, including United States Reg. No. 3,074,241, registered March 28, 2006; United States Reg. No. 4,007,079, registered August 2, 2011; and European Union Reg. No. 4,183,893, registered July 24, 2006.

The Disputed Domain Name was registered on July 14, 2023. At the time of filing the Complaint, the website at the Disputed Domain Name was inactive. The Disputed Domain Name appears to have been associated with recently detected phishing incidents.

Respondent is reportedly located in Wisconsin, United States.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

Notably, Complainant contends that the Disputed Domain Name is confusingly similar to Complainant's trademarks. Complainant asserts that the Disputed Domain Name is an exact reproduction of LINKEDIN, except for the addition of a hyphen and Complainant's CEO's name, Ryan Roslansky.

Complainant further contends that Respondent has no rights or legitimate interests in the Disputed Domain Name. Complainant has never assigned, granted, licensed, sold, transferred, or in any way authorized Respondent to use Complainant's trademarks. Respondent is not commonly known as "ryanroslansky-linkedin.com" and has not established rights in the Disputed Domain Name. Furthermore, Respondent has not used the Disputed Domain Name in connection with a *bona fide* offering of goods and services.

Finally, Complainant asserts that the Disputed Domain Name was registered and is being used in bad faith. Respondent had prior knowledge of Complainant's trademarks as evidenced by the use of Complainant's trademark and CEO's name in the Disputed Domain Name. The Disputed Domain Name does not resolve to a functioning website. Instead, Complainant asserts that Google Safe Browsing reports that the website associated with the Disputed Domain Name is "deceptive" and that it has "recently detected phishing" in connection with the Disputed Domain Name.

As relief, Complainant requests transfer of the Disputed Domain Name.

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 respond to Complainant's contentions, the onus remains on Complainant to prove these elements. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3 ("[...] a respondent's default (*i.e.*, failure to submit a formal response) 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 [...] 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."); *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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between Complainant's trademark and the Disputed Domain Name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced and recognizable within the Disputed Domain Name. Accordingly, the Disputed Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, "Ryan Roslansky" and the hyphen, may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the Disputed Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

In view of the foregoing, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative," requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainant has established a *prima facie* case that Respondent lacks rights or legitimate interests in the Disputed Domain Name. Respondent has not rebutted Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name such as those enumerated in the Policy or otherwise.

The Disputed Domain Name was registered more than 20 years after Complainant registered <linkedin.com> and 17 years after Complainant established trademark rights in LINKEDIN. Complainant also has not authorized Respondent to use its trademarks.

Respondent is not commonly known by the Disputed Domain Name. Respondent failed to respond to the Complaint, and there is no evidence to show that Respondent is commonly known as the Disputed Domain Name or operates a business or organization under the Disputed Domain Name. Instead, according to the Whois Report, Respondent is Curtis Kessel. The nature of the Disputed Domain Name, which comprises Complainant's LINKEDIN mark together with "Ryan Roslansky," the name of Complainant's CEO, cannot constitute fair use because Respondent thereby effectively impersonates or suggests sponsorship or endorsement by the trademark owner. Such use does not establish rights or legitimate interests in the Disputed Domain Name. See e.g., *ArcelorMittal (Société Anonyme) v. Surejogi Group Limited*, WIPO Case No. [D2021-1129](#) (finding that Respondent's use of Complainant's MITTAL mark in combination with "aditya," the Complainant's CEO, effectively constituted impersonation or falsely suggested sponsorship or endorsement by the trademark owner).

Panels have held that the use of a domain name for illegal activity, such as phishing, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

No *bona fide* use of the Disputed Domain Name has been made since its registration on July 14, 2023. Rather, Google Safe Browsing reports that the website associated with the Disputed Domain Name is "deceptive" and that it has "recently detected phishing" in connection with the Disputed Domain Name. See, e.g., *Morrison & Foerster LLP v. Privacy Service Provided by Withheld for Privacy ehf/Michael Cove*, WIPO Case No. [D2022-1862](#) ("Use of a domain name for illegal activity such as impersonation and phishing, can never confer rights or legitimate interests on a respondent."); *Kimley-Horn and Associates, Inc. v. Abraham Hashim*, WIPO Case No. [DCO2019-0017](#) ("The use of the domain name for such a fraudulent purpose as phishing, obviously, cannot be held to constitute a bona fide use of the disputed domain name.").

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4. At least one prior UDRP panel has held that "Complainant's LINKEDIN mark is distinctive and well-known." *LinkedIn Corporation v. Contact Privacy Inc. Customer 0138656558 / Scott Offord, Bytes and Sites Inc*, WIPO Case No. [D2016-1171](#). Complainant's many worldwide trademark registrations, prior rights in LINKEDIN, and prior registration of <linkedin.com> create a presumption of Respondent's knowledge of Complainant's trademark, and thus Respondent's registration of the Disputed Domain Name suggests opportunistic bad faith. Further, Respondent's incorporation of the personal name "Ryan Roslansky," the name of Complainant's CEO, in the Disputed Domain Name is further evidence of bad faith on the part of Respondent. See *ArcelorMittal (Société Anonyme) v. Surejogi Group Limited*, WIPO Case No. [D2021-1129](#) (finding that Respondent's use of Complainant's MITTAL mark in combination with "aditya," the Complainant's CEO, constituted further evidence of bad faith); and *ArcelorMittal (SA) v. 张佳 Zhang Jia*, WIPO Case No. [D2020-1042](#) (finding evidence of bad faith where "[e]ven a cursory Internet search at the

time of registration of the disputed domain name would have made it clear to the Respondent that the Complainant owned registered trademarks in MITTAL and used these extensively, and that its CEO Lakshmi Mittal has a long connection with and holds a prominent role at the Complainant. The Respondent obviously aimed to associate the disputed domain name with the Complainant's business and its CEO.”).

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity, such as phishing, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. The Panel notes that Respondent's website associated with the Disputed Domain Name has been reported as “deceptive” and has “recently detected phishing” in connection with it as reported by Google Safe Browsing.

Currently, the disputed domain name resolved to an inactive website. Panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the Disputed Domain Name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of Complainant's trademark, and the composition of the Disputed Domain Name, and finds that in the circumstances of this case the passive holding of the Disputed Domain Name does not prevent a finding of bad faith under the Policy.

Based on the available record, the Panel finds 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 <ryanroslansky-linkedin.com> be transferred to Complainant.

/Purvi Patel Albers/

Purvi Patel Albers

Sole Panelist

Date: December 12, 2023