

ADMINISTRATIVE PANEL DECISION

Emory University, Emory Healthcare, Inc. v. Hacketty Mery, Salim Shaik
Case No. D2024-3323

1. The Parties

The Complainants are Emory University and Emory Healthcare, Inc., both of United States of America ("United States"), represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States.

The Respondent is Hacketty Mery, Salim Shaik, Bangladesh.

2. The Domain Name and Registrar

The disputed domain name <emorypatient-portal.com> ("Domain Name") is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on August 14, 2024. On August 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On August 14, 2024, 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 (Whois Privacy Protection Foundation) and contact information in the Complaint. The Center sent an email communication to the Complainants on September 10, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amendment to the Complaint on September 10, 2024.

The Center verified that the Complaint together with the amendment to 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 the Respondent of the Complaint, and the proceedings commenced on September 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 2, 2024.

The Center appointed Nicholas Smith as the sole panelist in this matter on October 7, 2024. 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 First Complainant is a research university established in 1836 in the United States, which has developed a significant reputation in educational services. The First Complainant controls its related entity, the Second Complainant, which provides a variety of healthcare services including operating 11 hospitals and 490 provider locations. Both the Complainants have offered a wide variety of goods and services under the trademark EMORY (the “EMORY Mark”) and promote their goods and services from a set of websites incorporating the EMORY Mark.

The Complainants have held a trademark registration for the EMORY Mark in the United States since 2000, with a first use date of 1836 (Registration No. 2382245 registered on September 5, 2000, for various goods and services including both education services and medical and hospital services).

The Domain Name was registered on February 3, 2022. The Domain Name resolves to a website (the “Respondent’s Website”) that prominently reproduces the EMORY Mark and the logo used by the Second Complainant. The Respondent’s Website purports to offer a “patient portal” for users of the Second Complainant’s healthcare services and invites visitors to log into their user account which could be used to allow the Respondent to access personal details of visitors or commit fraud.

5. Parties’ Contentions

A. Complainant

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the Domain Name.

Notably, the Complainants contend that:

- a) They are the owner of the EMORY Mark, having registered the EMORY Mark in the United States. The Domain Name is confusingly similar to the EMORY Mark as it reproduces the EMORY Mark in its entirety and adds the descriptive term “patient-portal”.
- b) There are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Complainants have not granted any license or authorization for the Respondent to use the EMORY Mark. The Respondent is not commonly known by the EMORY Mark, nor does it use the Domain Name for a bona fide purpose or legitimate noncommercial purpose. Rather, the Respondent is using the Domain Name to pass off as the Second Complainant for commercial gain as part of a phishing scheme or for advertising illicit or scam products. Such use is not a legitimate use of the Domain Name.
- c) The Domain Name was registered and is being used in bad faith. The Respondent is using the Domain Name to divert Internet users searching for the Complainants to the Respondent’s Website for commercial gain. Such conduct amounts to registration and use of the Domain Name in bad faith.

B. Respondent

The Respondent did not reply to the Complainants’ contentions.

6. Discussion and Findings

Consolidation: Multiple Complainants

The WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)) provides at section 4.11.1, in respect of the issue of “Multiple complainants filing against a single respondent”, that:

“Paragraph 10(e) of the UDRP Rules grants a panel the power to consolidate multiple domain name disputes. At the same time, paragraph 3(c) of the UDRP Rules provides that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder.

In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation.”

The present proceeding involves two Complainants bringing a single complaint against a common Respondent. The Complainants have made a request for consolidation and bear the onus of establishing that such a consolidation is justified.

The Panel is satisfied, based on the material filed, that the Complainants have a specific common grievance against the Respondent, in that the Complainants have a common legal interest as related entities that hold and use the EMORY Mark. The Panel has considered whether it would be equitable and procedurally efficient to permit the consolidation.

The Panel finds that it is equitable and procedurally efficient to grant the Complainants’ request for consolidation. For the remainder of the decision, the Panel will refer to the Complainants in the singular when appropriate.

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 the Complainant’s trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The 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 entirety of the EMORY Mark is reproduced within the Domain Name. Accordingly, the 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, here “patient-portal”, may bear on assessment of the second and third elements, the Panel finds the addition of such a term does not prevent a finding of confusing similarity between the Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 the 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 the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name such as those enumerated in the Policy or otherwise.

The Panel considers that the record of this case reflects that:

- Before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made 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. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.
- The Respondent (as an individual, business, or other organization) has not been commonly known by the Domain Name. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.
- The Respondent is not 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. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.
- The record contains no other factors demonstrating rights or legitimate interests of the Respondent in the Domain Name.

The Respondent’s use of the Domain Name to resolve to a webpage reproducing the Complainant’s EMORY Mark, purporting to allow visitors to “log in” to their account, does not amount to use for a bona fide offering of goods and services. Rather, it appears that the purpose behind the Respondent’s Website is to encourage visitors, under the impression that they are dealing with the Complainant, to provide their personal details and passwords to the Respondent to enable the Respondent to commit some sort of fraud. Such conduct amounts to phishing, and 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.

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 Panel considers that the record of this case reflects that the 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 the 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 the Respondent’s Website or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

Having reviewed the available record, the Panel finds the Respondent's registration and use of the Domain Name constitutes bad faith under the Policy. The Respondent's Website reproduces the Complainant's EMORY Mark and purports to invite visitors, under the impression that they are dealing with an official website of the Complainant, the opportunity to provide their account details and passwords to "log in" to a non-existent patient portal. However, what apparently occurs is that the Respondent seeks to use the Respondent's Website to steal the personal information of visitors misled into visiting the Respondent's Website for the purposes of committing fraud. Such conduct is deceptive, illegal, and in previous UDRP decisions has been found to be evidence of registration and use in bad faith. See *FIL Limited v. Withheld for Privacy Purposes, Privacy service provided by Withheld for Privacy ehf / Mark Steven*, WIPO Case No. [D2021-3284](#). See also [WIPO Overview 3.0](#), section 3.4 and 2.13.

The Panel finds the third element of the Policy has been established.

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 <emorypatient-portal.com> be transferred to the Complainant.

/Nicholas Smith/

Nicholas Smith

Sole Panelist

Date: October 10, 2024