

ADMINISTRATIVE PANEL DECISION

Southern Glazer's Wine and Spirits, LLC v. Bradleyq Richgruber,
southernglazerscareers
Case No. D2024-3380

1. The Parties

Complainant is Southern Glazer's Wine and Spirits, LLC, United States of America ("United States"), represented by Jackson Walker, LLP, United States.

Respondent is Bradleyq Richgruber, southernglazerscareers, United States.

2. The Domain Name and Registrar

The disputed domain name <southernglazers-careers.com> (the "Disputed Domain Name") is 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 August 16, 2024. On August 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On August 19, 2024, 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 (REDACTED FOR PRIVACY, southernglazerscareers) and contact information in the Complaint. The Center sent an email communication to Complainant on August 20, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on August 26, 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 Respondent of the Complaint, and the proceedings commenced on August 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 16, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on September 18, 2024.

The Center appointed Richard W. Page as the sole panelist in this matter on September 25, 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

Complainant is a duly licensed distributor of alcoholic beverage products. Complainant was formed in 2016, as a result of a transaction between Southern Wine & Spirits of America, Inc. and Glazer's Inc. Complainant distributes top-rated wine, beer, spirits, and more. Its main office is located in Miami, Florida.

Complainant is the owner of the following trademark registrations for its SOUTHERN GLAZER'S mark ("SOUTHERN GLAZER'S Mark"):

- United States, Registration No. 5,233,805, SG SOUTHERN GLAZER'S WINE & SPIRITS, registered June 27, 2017 for "distributorship services in the field of wine, beer, spirits and other alcoholic and non-alcoholic beverages";
- United States, Registration No. 5,233,679, SG SOUTHERN GLAZER'S WINE AND SPIRITS, registered June 27, 2017 of "distributorship services in the field of wine, beer, spirits, and other alcoholic and non-alcoholic beverages";
- United States, Registration No. 5,214,882 SOUTHERN GLAZER'S, registered on May 30, 2017 for "distributorship services in the field of wine, beer, spirits, and other alcoholic and non-alcoholic beverages".

Complainant owns the domain name <southernglazers.com>, incorporating the SOUTHERN GLAZER'S Mark. Complainant is known by its name – Southern Glazer's Wine and Spirits – throughout the United States and Canada to consumers in the market for distributorship services in the field of wine, beer, spirits, other alcoholic beverages and non-alcoholic beverages. Complainant has conducted a significant amount of business under this name since 2016. Complainant advertises under the name Southern Glazer's Wine and Spirits and maintains its social media presence under this name.

Respondent does not have a business relationship with Complainant and Complainant has not authorized Respondent to use the SOUTHERN GLAZER'S Mark in any way.

The Disputed Domain Name was registered July 19, 2024, and resolves to a website which has limited content. Further, the evidence shows that the Disputed Domain Name has been used for fraudulent activities.

5. Parties' Contentions

A. Complainant

Complainant alleges that the Disputed Domain Name incorporates the entirety of the essential element of the SOUTHERN GLAZER'S Mark and is recognizable in the Disputed Domain Name.

Complainant further alleges that it has received consumer reports of an employment hiring scam. On July 31, 2024, an imposter attempted to defraud an innocent third party via email using an "@southernglazers-careers.com" email address designed to impersonate a legitimate employee of Complainant. The email also made use of the SOUTHERN GLAZER'S Mark.

Complaint further alleges that on August 7, 2024, an imposter attempted to defraud an innocent third party via email using "[...]@um.si" email address designed to impersonate a legitimate employee of Complainant.

Complainant further alleges that Respondent has, also, been reaching out to innocent third parties via text messages, as well as social media, impersonating a legitimate employee of Complainant and claiming to be a recruiter.

Complainant further alleges that, at present, the website to which the Disputed Domain Name resolves is limited in content. Complainant further alleges that the fact that the site has limited content is no defense for improper use of the Disputed Domain Name or for the fraudulent scheme of which it is a part.

Complainant further alleges that the failure to make any legitimate use further demonstrates the bad faith scheme. Mail Exchange ("MX") records demonstrate the webmail remains active and is continuing efforts to phish information from unsuspecting Internet users and/or for use in active fraudulent email schemes.

Complainant submits that Respondent's use of the Disputed Domain Names is unauthorized and, therefore, cannot be bona fide.

Complainant further submits that Respondent's use of the Disputed Domain Name in a fraudulent scheme cannot be a legitimate or fair use.

Complainant further submits that Respondent has no registered trademarks of the Dispute Domain Name, and that Respondent is not commonly known by the Disputed Domain Name.

Complainant declares that Respondent had actual and constructive notice of Complainant's rights in the SOUTHERN GLAZER'S Mark before registering the Disputed Domain Name.

Complainant further declares that Respondent is passing itself off as Complainant through the use of deceptive emails in the phishing scam of collecting personal information from potential employees.

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

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: "A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable."

Even though Respondent has failed to file a Response or to contest Complainant's assertions, the Panel will review the evidence proffered by Complainant to verify that the three essential elements of the claims are met. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.3.

Paragraph 4(a) of the Policy directs that Complainant must prove each of the following three elements:

- i) that the Disputed Domain Name registered by Respondent is identical or confusingly similar to the SOUTHERN GLAZER'S Mark in which Complainant has rights; and
- ii) that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- iii) that the Disputed Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

[WIPO Overview 3.0](#), section 1.2.1 states that registration of a trademark is prima facie evidence of Complainant having enforceable rights in the SOUTHERN GLAZER'S Mark.

Complainant has shown rights in respect of the SOUTHERN GLAZER'S Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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 SOUTHERN GLAZER'S Mark and the Disputed Domain Name. [WIPO Overview 3.0](#), section 1.7.

The entirety of the SOUTHERN GLAZER'S Mark is reproduced 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, here the term "careers", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the Disputed Domain Name and the SOUTHERN GLAZER'S 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 allows three nonexclusive methods for the Panel to conclude that Respondent has rights or a legitimate interest in the Disputed Domain Name:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Disputed Domain Name or a name corresponding to the Disputed Domain Name in connection with a bona fide offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Disputed Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Disputed Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the SOUTHERN GLAZER'S Mark.

Although the overall burden of proof in UDRP proceedings is on Complainant, panels have recognized that proving Respondent lacks rights or legitimate interests in the Disputed Domain Name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of Respondent. As such, where Complainant makes out a prima facie case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name (although the burden of proof always remains on Complainant). If Respondent fails to come forward with such relevant evidence, 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.

Panels have held that the use of a domain name for illegal activity, here claimed phishing, passing off and fraud, can never confer rights or legitimate interests on 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 the Disputed Domain Name in bad faith.

Complainant has based its allegations of bad faith on paragraph 4(b) of the Policy.

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

Complainant alleges that Respondent's passing off as Complainant in the use of the deceptive email accounts shows actual knowledge of Complainant's rights in the SOUTHERN GLAZER'S Mark.

Complainant further alleges that its registration of the SOUTHERN GLAZER'S Mark prior to the registration of the Disputed Domain Name shows constructive knowledge. [WIPO Overview 3.0](#), section 3.2.2.

Panels have held that the use of the Disputed Domain Name for illegal activity, here claimed as phishing, passing off, and fraud, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the Disputed Domain Name constitutes bad faith under the Policy.

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 <southernglazers-careers.com> be transferred to Complainant.

/Richard W. Page/

Richard W. Page

Sole Panelist

Date: October 7, 2024