

ADMINISTRATIVE PANEL DECISION

BRAIN LABS DIGITAL LTD v. Brainlabs Media

Case No. D2024-4174

1. The Parties

The Complainant is BRAIN LABS DIGITAL LTD, United Kingdom, represented by Pinsent Masons LLP, United Kingdom.

The Respondent is Brainlabs Media, United States of America.

2. The Domain Name and Registrar

The disputed domain name <brainlabsmedia.net> is registered with One.com A/S (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 10, 2024. On October 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 11, 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”) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 11, 2024, 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 amendment to the Complaint on October 29, 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 November 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 21, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 25, 2024.

The Center appointed Knud Wallberg as the sole panelist in this matter on December 5, 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 Complainant, BRAIN LABS DIGITAL LTD was founded in 2012, and has grown to become one of the world's largest media agencies. The Complainant owns several registered trademarks consisting of or containing the word BRAINLABS including United States of America registration No. 5198032, registered on May 9, 2017 covering a wide range of services in classes 35, 41 and 42 and International registration No. 1290383 covering goods and services in classes 9, 16, 35, 38, 41 and 42 designating Australia, Canada, China, Colombia, European Union, Egypt, India, Indonesia, Israel, Japan, Malaysia, Mexico, New Zealand, Norway, Philippines, Republic of Korea, Russian Federation, Singapore, Switzerland, Thailand, Türkiye, Ukraine, United Arab Emirates and Viet Nam.

The Complainant's website is found at "www.brainlabsdigital.com".

The disputed domain name was registered on May 22, 2024. The disputed domain name resolves to a parked page showing an expired webpage.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

The Complainant submits that the BRAINLABS brand has a strong online presence, both via its company websites and on social media. In support of this, the Complainant has submitted a selection of global press articles that show the fame and notoriety that the BRAINLABS brand has achieved in relation to digital advertising and related services in relation to digital marketing.

Notably, the Complainant contends that the disputed domain name wholly incorporates the BRAINLABS Mark at the start of it, with a minor addition of the word "media" at the end. Therefore, the disputed domain name is phonetically and visually confusingly similar to the Complainant's marks. The Complainant furthermore, submits that the Respondent has no rights or legitimate interests in the disputed domain name and that given the widespread use and reputation of the Complainant's marks, the Respondent must have been aware that in registering the disputed domain name it was misappropriating the valuable intellectual property of the Complainant.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following:

- (i) that the disputed domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) that the 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.

Paragraph 4(a) of the Policy states that the burden of proving that all these elements are present lies with the Complainant. At the same time, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules, or any request from the Panel, the Panel shall draw such inferences therefrom as it considers 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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[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 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, "media", 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 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 disputed 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 disputed domain name such as those enumerated in the Policy or otherwise.

The Panel notes that the Respondent has used the name “Brainlabs Media” as the name of the Registrant with the Registrar, but inter alia since the email of the Respondent is “[...]@gmail.com”, and that the Respondent has failed to participate in these proceedings the Panel, on balance, is not in a position to assume that the Respondent may have rights or legitimate interests in the disputed domain name.

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.

Given the circumstances of the case, particularly the distinctiveness of the Complainant’s trademark BRAINLABS, it is inconceivable to the Panel that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant’s mark. Moreover, the mere registration of a domain name that is confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to a well-known trademark by an unaffiliated entity may by itself create presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

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.

In the present case, the Panel notes that the Respondent has failed to participate in these proceedings and, that given the distinctive nature of the Complainant’s trademark BRAINLABS there appears to be no conceivable good faith use that could be made by the Respondent of the disputed domain name. Under these circumstances the fact that the disputed domain name is currently not used actively does not prevent a finding of bad faith use. As it is stated in section 3.3 of the [WIPO Overview 3.0](#): “From the inception of the UDRP, panelists 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.”

Noting that the disputed domain name <brainlabsmedia.net> incorporates the Complainant’s distinctive and reputed trademark BRAINLABS, that no Response has been filed and that there appears to be no conceivable good faith use that could be made by the Respondent of the disputed domain name, and considering all the facts and evidence of the case, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy are also fulfilled in relation to this domain name.

The Panel finds that the 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 <brainlabsmedia.net> be transferred to the Complainant.

/Knud Wallberg/

Knud Wallberg

Sole Panelist

Date: December 27, 2024