

ADMINISTRATIVE PANEL DECISION

OddBytes, Inc. v. kent dso
Case No. D2024-4806

1. The Parties

Complainant is OddBytes, Inc., United States of America (“United States”), represented by OddBytes, Inc., United States.

Respondent is kent dso, United States.

2. The Domain Name and Registrar

The disputed domain name <oddbytescareers.com> (the “Domain Name”) is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 20, 2024. On November 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 21, 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 (Owner of Oddbytescareers.com, website) and contact information in the Complaint. The Center sent an email to Complainant on November 21, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on November 22, 2024.

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”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on November 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 15, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on December 16, 2024.

The Center appointed Robert A. Badgley as the sole panelist in this matter on December 18, 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 describes itself as “a leader in advertising technology services.” According to Complainant, its domain name <oddbytes.com> went “live” on May 6, 2022, and since then it has used that domain name as a commercial website. Complainant alleges that it has served more than 10,000 advertisers who use Complainant’s ODDBYTES proprietary advertising platform, and that its clients include Instacart, Disney, CapitalOne, Carfax, ESPN, ZipRecruiter, and MGM Resorts.

Complainant does not hold a registered trademark for ODDBYTES. Complainant has, however, a pending application with the United States Patent and Trademark Office (“USPTO”), Serial No. 9730122, to register the word mark ODDBYTES in connection with, among other things, “brand imagery consulting services,” “downloadable computer software in the field of advertising,” and “providing on-line non-downloadable software computer software in the field of advertising,” with a date of first use in commerce of May 6, 2022. That application was filed on March 18, 2022. On August 29, 2024, the USPTO granted Complainant’s request for a third extension of time to file a Statement of Use.

The Domain Name was registered on November 11, 2024. That same day, Complainant began to receive inquiries from prospective job applicants. These individuals told Complainant that they had received emails from someone using the Domain Name as an email address, and the emails sought to recruit them and asked for personal information. In some instances, Complainant alleges, it was told by these individuals that they were asked to cash a check to purchase equipment and wire funds back to Respondent.

According to Complainant:

“The Oddbytescareers.com domain was created on November 11, 2024 with the sole purpose of engaging in wire fraud, stealing the personal information of unsuspecting job applicants, and impersonating Complainant for that purpose. Respondent has not created a website and does not appear to have any legitimate business purpose for using the name OddBytescareers. Respondent does not sell any goods or services.”

Annexed to the Complaint is a string of emails concerning Respondent’s alleged job recruitment scam. One such email, dated November 11, 2024, was sent by someone using the Domain Name as an email address, which email bore the subject line, “Join Us as Our Next Social Media Manager!”

Also annexed to the Complaint are communications between Complainant and the United States Federal Bureau of Investigation (“FBI”), in which Complainant reported the suspected job recruitment scam to the FBI. Complainant also asserts that it tried to communicate with Respondent by email, but received no response.

Respondent has not denied any of the foregoing allegations, and has not disputed any of the evidence presented by Complainant.

5. Parties’ Contentions

A. Complainant

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

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

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 Panel finds that Complainant has rights in the mark ODDBYTES through use demonstrated in the record. The Panel also finds that the Domain Name is confusingly similar to the ODDBYTES mark. Notwithstanding the additional word "careers," the ODDBYTES mark remains recognizable within the Domain Name.

Complainant has established Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or 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; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the 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 Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes, on the undisputed record here, that Respondent lacks rights or legitimate interests in respect of the Domain Name. Respondent has not come forward to articulate a bona fide basis for registering the Domain Name, and has not disputed the allegations and evidence presented by Complainant. The undisputed record here shows that Respondent registered the Domain Name and immediately started using it to send fake emails designed to impersonate Complainant and perpetrate a phishing scam on individuals who might be interested in applying for a job with Complainant. The scam included a request to provide personal and financial information. Such a use of the Domain Name is obviously illegitimate.

Complainant has established Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation,” are evidence of the registration and use of the Domain Name in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

The Panel concludes, on the record provided here, that Respondent has registered and used the Domain Name in bad faith. The Panel incorporates its discussion above in the “Rights or Legitimate Interests” section. On this undisputed record, the Panel concludes that Respondent, more likely than not, had Complainant’s mark in mind when registering the Domain Name, and that Respondent’s use of the Domain Name constitutes bad faith within the meaning of the above-quoted Policy paragraph 4(b)(iv).

Complainant has established Policy paragraph 4(a)(iii).

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 <oddbytescareers.com> be transferred to Complainant.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: December 27, 2024