

ADMINISTRATIVE PANEL DECISION

RealPage Utility Management Inc. v. Alan Brilliant
Case No. D2025-0317

1. The Parties

The Complainant is RealPage Utility Management Inc., United States of America (“United States”), represented by Haynes and Boone, LLP, United States

The Respondent is Alan Brilliant, United States.

2. The Domain Name and Registrar

The disputed domain name <simplebills2.com> (hereinafter “Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 28, 2025. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. Also on January 28, 2025, 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 January 29, 2025, 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 amended Complaint on February 3, 2025.

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 the Respondent of the Complaint, and the proceedings commenced on February 10, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 2, 2025. The Response was filed with the Center on February 23, 2025.

The Center appointed Evan D. Brown, Lawrence K. Nodine, and James H. Grossman as panelists in this matter on March 11, 2025. The Panel finds that it was properly constituted. Each member of 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 is a software and data analytics company operating in the real estate industry. The Complainant owns the mark SIMPLE BILLS and its companion mark which contains no space between the two words – SIMPLEBILLS which it uses in connection with its software products. It enjoys the benefits of registration of these two marks in the United States (Reg. No. 5938042, registered on December 17, 2019 and Reg. No. 6022758, registered on March 31, 2020). The Complainant uses the domain name <simplebills.com> where it sometimes displays its mark stylized and as a composite mark having a design:



According to the Whois information, the disputed domain name was registered on February 25, 2023. The Respondent has used the disputed domain name to publish a website that displays at the top of the landing page the following imitation of the Complainant's composite mark:



On the same page, the Respondent displays the following content:



The page continues with assertions that the Complainant commits fraud and is comprised of criminals. The Respondent's website also displays photos of three individuals that the Respondent identifies as the Complainant's executives and labels them using the words "fraud," "scammer," and "grifter." The Respondent also displays quotations from reviews attributed to dissatisfied customers and encourages Internet viewers to "Fight Back" by, among other actions, filing complaints with the United States Consumer Fraud protection Bureau. A disclaimer appears at the bottom of the page: "Disclaimer: this website only represents the opinions of its creators and intends to be nothing more."

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant's trademark; that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

The Respondent's primary assertion is that its website published at the disputed domain name is a bona fide noncommercial criticism site reflecting the Respondent's experiences and public concerns about the Complainant's services, is protected by free speech principles, and permitted under paragraph 4(c)(iii) of the Policy. The Respondent points to [WIPO Overview 3.0](#), Section 2.6.2, which observes: "In certain cases involving parties exclusively from the United States, some panels applying US First Amendment principles have found that even a domain name identical to a trademark used for a bona fide noncommercial criticism site may support a legitimate interest."

The Respondent contends that the addition of the number “2” within the disputed domain name serves as a distinguishing signal suggesting an alternative, commentary, or parody rather than an official extension of the Complainant’s brand. The Respondent argues that this reduces the likelihood of confusion with the Complainant’s legitimate <simplebills.com> domain name.

The Respondent further emphasizes that the website found at the disputed domain name is noncommercial, containing no advertisements, promoting no sales opportunities, and having no affiliate links. It asserts there could be no initial interest confusion contention, arguing that the “2” portion of the disputed domain name and red “TWO” in the webpage header signal parody, not affiliation, that there is a disclaimer on every page; and that the site’s critical content (e.g., “SimpleBills.com is overcharging tenants and engaging in unethical, predatory billing practices”) is immediately apparent, negating impersonation risks.

The Respondent disputes the Complainant’s bad faith contention, arguing that the site’s noncommercial nature, immediate critical tone, and disclaimer demonstrate good faith. The Respondent maintains that the disputed domain name was registered to criticize the Complainant’s practices after unresolved disputes, not to sell it, compete with the Complainant, or confuse consumers.

Regarding an allegation of tarnishment made by the Complainant, the Respondent argues that tarnishment requires intent to harm the trademark beyond fair criticism. The Respondent claims that the criticism is not “false” or “baseless,” but based on personal experience, published customer reviews, and allegations made in a United States Department of Justice lawsuit against the Complainant’s parent company.

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights, (ii) the 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. The Panel finds that all three of these elements have been met in this case.

A. Identical or Confusingly Similar

This first element functions primarily as a standing requirement. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7. 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. This element requires the Panel to consider two issues: first, whether the Complainant has rights in a relevant mark; and second, whether the disputed domain name is identical or confusingly similar to that mark.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#). The Complainant has demonstrated its rights in the SIMPLEBILLS mark by providing evidence of its trademark registration of that mark. See [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name incorporates the SIMPLEBILLS mark in its entirety, together with the number “2”, which does not prevent a finding of confusing similarity between the disputed domain name and the Complainant’s SIMPLEBILLS mark for purposes of the Policy. See [WIPO Overview 3.0](#), section 1.8. The SIMPLEBILLS mark remains recognizable for a showing of confusing similarity under the Policy.

It is standard practice when comparing a disputed domain name to a complainant’s trademarks, to not take the extension into account. See [WIPO Overview 3.0](#) at 1.11.1 (“The applicable Top Level Domain (“TLD”) in a domain name (e.g., “.com”, “.club”, “.nyc”) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.”).

The Panel finds that the Complainant has established this first element under the Policy.

B. Rights or Legitimate Interests

The Panel evaluates this element of the Policy by first looking to see whether the Complainant has made a prima facie showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainant makes that showing, the burden of production shifts to the Respondent to demonstrate rights or legitimate interests (with the burden of proof always remaining with the Complainant). See [WIPO Overview 3.0](#), section 2.1.

On this point, the Complainant asserts, among other things, that: (1) the Respondent does not operate a business or organization under the name “SimpleBills2”; (2) the Respondent has never been authorized to use the Complainant’s SIMPLEBILLS mark; (3) the Respondent is not commonly known as “SimpleBills2” or any similar name; and (4) the Respondent’s use of the disputed domain name began years after the Complainant registered its mark. The Complainant further contends that the Respondent is not attempting to establish any legitimate rights in the disputed domain name, but rather to exploit the Complainant’s goodwill in its SIMPLEBILLS mark and its own domain name by creating a likelihood of confusion among Internet users.

The Complainant also addresses the inapplicability of any fair use defense under paragraph 4(c)(iii) of the Policy. Specifically, the Complainant argues that the Respondent’s use of the disputed domain name cannot be considered a legitimate noncommercial or fair use because it is designed to misleadingly divert consumers or tarnish the Complainant’s mark. Citing the potential for confusion, impersonation risks, and trademark tarnishment, the Complainant asserts that the Respondent’s conduct fails to meet the threshold for legitimate criticism or fair use.

The Panel finds that the Complainant has made the required prima facie showing.

The Respondent invokes paragraph 4(c)(iii) of the Policy, claiming a right to make fair use of the Complainant’s SIMPLEBILLS mark to express legitimate criticism. Panels under the Policy, however, generally hold that this right does not extend to registering or using a domain name that is identical to the complainant’s trademark. Even where the site content contains genuine noncommercial criticism, use of an identical domain name creates an impermissible risk of user confusion through impersonation. See [WIPO Overview 3.0](#), section 2.6.2.

Panels have recognized that where a domain name adds a derogatory term to the complainant’s trademark (e.g., <trademarksucks.tld>), this may give rise to a legitimate interest if the resulting domain name is prima facie noncommercial, genuinely fair, and not misleading or false. See [WIPO Overview 3.0](#), section 2.6.3. The Respondent contends that the addition of “2” to the disputed domain name serves as a signal to users that the website is offering an alternative or parody rather than being an official extension of the Complainant’s brand. But the Panel disagrees.

The Panel finds that the addition of the numeral “2” does not signal criticism or parody to a reasonable Internet user. Instead, the disputed domain name strongly suggests an updated version of the Complainant’s official site (i.e., “version 2”). This gives rise to an impression of affiliation or endorsement, not disassociation. See *Dover Downs Gaming & Entertainment, Inc. v. Domains By Proxy, LLC / Harold Carter Jr, Purlin Pal LLC*, WIPO Case No. [D2019-0633](#). As in *Sellwerk GmbH & Co. KG v. Anonymize, Inc.*, WIPO Case No. [D2024-2269](#), the mere addition of a non-descriptive element “in no way signals that an Internet user could expect to find criticism at the associated online location.” The same reasoning applies here.

The content of the website at the disputed domain name further supports the conclusion that the Respondent is impersonating the Complainant. The Respondent incorporates the Complainant’s logo into its own “SimpleBills2” pseudo-trademark and states, in prominent text, “WE COMMIT FRAUD.” The use of “we” creates an impression that the website is sponsored by the Complainant or is otherwise affiliated with it. This “indicates to the Panel that the Respondent has intentionally cloaked itself in the Complainant’s identity.” *Sellwerk GmbH & Co. KG*, supra.

The Respondent cites [WIPO Overview 3.0](#), section 2.6.2, which notes that “in certain cases involving parties exclusively from the United States,” some panels have permitted even identical domain names for bona fide noncommercial criticism sites. In support, the Respondent references decisions such as *Falwell v. Cohn*, WIPO Case No. [D2002-0184](#), *Covance, Inc. v. Covance Campaign*, WIPO Case No. [D2004-0206](#), *Bridgestone Firestone, Inc. v. Jack Myers*, WIPO Case No. [D2000-0190](#), and *Howard Jarvis Taxpayers Association v. Paul McCauley*, WIPO Case No. [D2004-0014](#). However, these decisions largely pre-date the more recent jurisprudence articulated in cases such as *Dover Downs* and *Sellwerk*, and the Panel believes they do not reflect the prevailing view. Not only that but in the *Falwell* case the panel found the complainant lacked trademark rights and one of the domain names was a typo, and in the *Covance* case the domain name was not identical.

The Panel also notes that the disclaimer appearing on the website is not sufficiently conspicuous to negate the implication of affiliation. See [WIPO Overview 3.0](#), section 3.7. One could reasonably believe that the Respondent’s use of a disclaimer in this situation is an admission by the Respondent that users may be confused. *Id.* The Panel is equally unpersuaded by the Respondent’s argument that users would quickly realize the site was critical of the Complainant.

Accordingly, the Panel finds that the Respondent has not overcome the Complainant’s prima facie showing, and that the Complainant has established this second element under the Policy.

C. Registered and Used in Bad Faith

The Policy requires a complainant to establish that the disputed domain name was registered and is being used in bad faith.

The Panel’s analysis of the second element leads necessarily to a finding of bad faith registration and use under the third element. It is clear to the Panel that the disputed domain name was selected with knowledge of and an intent to target the Complainant’s mark and its business operations. This supports bad faith registration. The composition of the disputed domain name, incorporating the Complainant’s mark plus the number “2” is likely to create confusion as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website. For this reason, bad faith use is clear.

Even if the website at the disputed domain name lacks direct commercial elements such as advertising or sales, this does not necessarily establish the absence of bad faith under the Policy. As stated in [WIPO Overview 3.0](#), section 3.1, “evidence demonstrating that a respondent seeks to take unfair advantage of, abuse, or otherwise engage in behavior detrimental to the complainant’s trademark would also satisfy the complainant’s burden” of demonstrating bad faith. The Panel finds that in these circumstances of the Respondent’s use of a confusingly similar domain name to attract Internet users to content that is harmful to the Complainant’s reputation constitutes such detrimental behavior, regardless of whether the Respondent derives immediate commercial benefit from this activity.

Furthermore, the incorporation of a slightly modified version of the Complainant’s stylized mark in the header of the Respondent’s website, coupled with statements such as “we commit fraud” – even if made disingenuously – creates an impression of affiliation that contributes to the finding of bad faith. The Panel finds that this indicates the Respondent has intentionally cloaked itself in the Complainant’s identity to attract Internet users to its critical content. See *Sellwerk GmbH & Co. KG*, supra.

This is a close case, with the Panel having wrestled with the issues arising from the interplay between free speech interests and the UDRP’s purpose of addressing abusive cybersquatting. On balance, however, with these particular facts, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel finds that the Complainant has established this third element under the Policy.

7. Decision

For the foregoing reasons, the Panel orders that the disputed domain name <simplebills2.com> be transferred to the Complainant.

/Evan D. Brown/

Evan D. Brown

Presiding Panelist

/Lawrence K. Nodine/

Lawrence K. Nodine

Panelist

/James H. Grossman/

James H. Grossman

Panelist

Date: April 4, 2025