Decision for dispute CAC-UDRP-101592

Case number	CAC-UDRP-101592
Time of filing	2017-07-18 10:28:20
Domain names	fujitsu-global.com

Case administrator

Name	Aneta Jelenová (Case admin)

Complainant

Organization	Fujitsu Ltd.

Complainant representative

Organization	RODENBAUGH LAW

Respondent

Name	Thomas Ruben

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other pending or decided legal proceedings which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

Fujitsu has continuously used the FUJITSU mark in global commerce since at least 1962. Since that time, Fujitsu has registered the FUJITSU mark in numerous jurisdictions throughout the world, including but not limited to the United States, Japan, Great Brittan, Italy, and many more. Fujitsu also owns a number of trademark registrations and applications for a number FUJITSU-formative marks, including FUJITSU INTEGRATED SYSTEM, FUJITSU LIMITED and others. Fujitsu trademark registrations include, but are not limited to:

FUJITSU, jurisdiction Japan, registration no. 588394, registration date June 6, 1962
FUJITSU, jurisdiction United States, registration no. 0826793, registration date April 4, 1967
FUJITSU (stylized), jurisdiction United States, registration no. 1930348, registration date October 31, 1995
FUJITSU (stylized), jurisdiction United States, registration no. 2359844, registration date June 20, 2000
FUJITSU (stylized), jurisdiction United States, registration no, 2482274, registration date August 28, 2001

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

COMPLAINT

I. Introduction

The Complaint was submitted for decision in accordance with the Uniform Domain Name Dispute Resolution Policy (the Policy), approved by the Internet Corporation for Assigned Names and Numbers (ICANN) on October 24, 1999, the Rules for Uniform Domain Name Dispute Resolution Policy (the Rules), approved by ICANN on September 28, 2013, and in effect as of July 31, 2015, and the UDRP Supplemental Rules for the Czech Arbitration Court (the Supplemental Rules) in effect as of the date of this filing.

II. The Parties

A. The Complainant
The Complainant in this administrative proceeding is Fujitsu Ltd.

B. The Respondent

The Respondent in this administrative proceedings is Thomas Ruben as disclosed by the registrar.

III. The Domain Name

This dispute concerns the domain name identified below:

<fujitsu-global.com>

IV. Language of Proceedings

The language of the Registration Agreement is in English.

V. Jurisdictional Basis for the Administrative Proceeding

This dispute is properly within the scope of the Policy and the Administrative Panel has jurisdiction to decide the dispute. The registration agreement, pursuant to which the domain name that is the subject of this Complaint is registered, incorporates the Policy.

VI. Factual and Legal Grounds

This Complaint is based on the following grounds:

FACTUAL BACKGROUND

Complainant’s Business and Trademarks

Fujitsu Ltd. (“Fujitsu” or “Complainant”) is a Japanese information and communication technology company, offering comprehensive solutions technology solutions to corporate clients around the world. In addition to a multifaceted services provision, Fujitsu’s comprehensive business encompasses the development, manufacture, sales and maintenance of the cutting-edge, high-quality products and electronic devices that make these services possible. Fujitsu provides IT-driven business solutions based on advanced technology and high-quality system platforms and services. Fujitsu’s system integration services focus on information system consulting and integration, and infrastructure services centered on outsourcing services. Fujitsu’s system product offering includes servers and storage systems which form the backbone of information systems, along with network products such as mobile phone base stations, optical transmission systems, and other communications infrastructures. Fujitsu is the largest information technology service provider in Japan and the fifth

largest in the world. The company currently employs over 156,000 people and provides support to customers in more than 100 countries.

Fujitsu has continuously used the FUJITSU mark in global commerce since at least 1962. Since that time, Fujitsu has registered the FUJITSU mark in numerous jurisdictions throughout the world, including but not limited to the United States, Japan, Great Brittan, Italy, and many more. Fujitsu also owns a number of trademark registrations and applications for a number FUJITSU-formative marks, including FUJITSU INTEGRATED SYSTEM, FUJITSU LIMITED and others. Fujitsu trademark registrations include, but are not limited to:

FUJITSU, jurisdiction Japan, registration no. 588394, registration date June 6, 1962
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FUJITSU (stylized), jurisdiction United States, registration no. 2359844, registration date June 20, 2000
FUJITSU (stylized), jurisdiction United States, registration no, 2482274, registration date August 28, 2001

Fujitsu has invested copious amounts of time and money to promote the ubiquitous FUJITSU brand. As such, consumers around the world have come to associate Fujitsu with the FUJITSU marks and brand. Through such longstanding and exclusive use by Fujitsu, the FUJITSU mark is famous in Japan, the United States, and throughout the world.

Fujitsu's main website can be found at <fujitsu.com> ("Complainant's Website"). Complainant's Website prominently displays the FUJITSU trademark in red at the top left corner of the home page and provides links labeled "Services", "Products", "Solutions", "Fujitsu Cloud", "Support" and "About Fujitsu" are displayed across the top of the page. Complainant's Website browser tab displays the text "Fujitsu Global". Moreover, Fujitsu is commonly known by the name 'Fujitsu Global' as evinced by the use of that name on Complainant's Twitter account and YouTube Channel, among other prominent uses.

No Business Relationship Exists Between the Parties

Respondent does not have, and never has had, permission to use the FUJITSU trademark.

Respondent's Bad Faith Registration and Use of the Disputed Domain Name

The name of the registrant (herein "Respondent") for the <fujitsu-global.com> domain name was unknown at the time of filing this Complaint as the Whois information was masked by a purported "privacy" service. However, the Whois record does reveal that the domain name was created on or about April 19, 2016.

The website associated with the disputed domain name (the "Infringing Website") prominently displays the text "FujitsuGlobal" in red at the top left corner of the page. The site also displays links labeled "HOME", "ABOUT US", "EXPERTISE", "TRADING", "CAREERS", "OPEN AN ACCOUNT" and "CONTACT" across the top of the page and the browser tabs displays the text "Fujitsu Global". The "OPEN AN ACCOUNT" link directs users to a page (the "Account Page") containing text that states "Open an Account at FujitsuGlobal" and in smaller text below states, "Thank you for your interest in opening an account with Fujitsu Global. You may open an account with our online application process, download and print the required documents below and email them to contact@fujitsu-global.com", below which there is a link that prompts the user to "Download Application Form". If the user clicks on the "Download Application Form" link, they are directed to a PDF form that requests sensitive user information, including but not limited to their name, address, marital status, employment status, date of birth, nationality, annual income, net worth, liquid net worth. Alternatively, the "Contact" link at the top of the home page directs users to a page ("Contact Page") that prompts them to enter other sensitive user information including their name and email address. The Contact Page also displays two phone numbers, one of which is listed on the website <scamnumbers.info>, stating that the number is associated with a "Fake Website".

A. THE DISPUTED DOMAIN IS CONFUSINGLY SIMILAR TO A TRADEMARK IN WHICH THE COMPLAINANT HAS RIGHTS

Complainant Fujitsu Has Prior, Valid Trademark Rights in the FUJITSU Mark

A complainant may satisfy the threshold requirement for standing under Paragraph 4(a)(i) of the Policy by demonstrating ownership of a valid trademark. See F. Hoffmann-La Roche AG v. Relish Enterprises, Case No. D2007-1629 (WIPO December 17, 2007) (quoting "WIPO Decision Overview" at §1.1). Here, Complainant's Japanese and United States trademark registrations for the FUJITSU mark establish Fujitsu's prior rights pursuant to paragraph 4(a)(i) of the Policy. Complainant's trademark rights in the FUJITSU mark date back to at least as early as 1962 when the mark was registered in Japan; whereas, the <fujitsu-global.com> disputed domain was not even created until April 2016, some fifty-four years after Complainant registered its FUJITSU mark in Japan, and over fifty years after the mark was registered in the United States.

The Disputed Domain Name is Confusingly Similar to Complainant's Trademark

The burden to establish confusing similarity is low, but in this case is extremely obvious. Research in Motion Limited v. One Star Global LLC, Case No. D2009-0227 (WIPO Apr, 9, 2009). A showing of confusing similarity only requires a "simple comparison of the mark relied upon with the domain name in issue." Id. Here, a simple comparison of the FUJITSU mark and the disputed domain name demonstrates that the disputed domain name is not only confusingly similar, but nearly identical to the FUJITSU mark. The disputed domain name <fujitsu-global.com> is comprised of the FUJITSU trademark (in its entirety) merely adding a 'hyphen' (discussed infra), and the generic term 'global'. It is well established that the addition of a generic term to a trademark does not avoid a finding of confusion. Sharman License Holdings, Limited v. Mario Dolzer, Case No. D2004-0935 (WIPO Jan. 31, 2006). Indeed within just the past eight months numerous UDRP decisions have held that the addition of the generic term 'global' does not create a new mark or avoid a finding of confusing similarity. See e.g. Philip Morris USA Inc. v. Kevin Perkins, American Technocratic Party / Contact Privacy Inc. Customer 124739395, Case No. D2017-0437 (WIPO May 15, 2017) (<philipmorrisglobal.com>); London Capital Group Limited v. shanghaijianotong maoyiyouxiangongsi, Case No. D2016-2633 (WIPO Feb. 16, 2017) (<lcgfxglobal.com>); BASF SE v. Whois Privacy Protection Service, Inc. / Tah Teche, Cranium Developers, Case No. D2016-1902 (WIPO Nov. 8, 2016) (<basf-global.com>); WeWork Companies, Inc. v. Michael Chiriac, Various Concepts Inc., Case No. D2016-1817 (WIPO Oct. 17, 2016) (<weworkglobal.com>). Moreover, the incorporation of a well-known trademark within a domain name (as is the case here) is alone enough to sustain a finding of confusing similarity. See, e.g., SoftCom Technology Consulting Inc. v. Olariu Romeo/Orv Fin Group S.L., Case No. D2008-0792 (WIPO Jul. 8, 2008) (finding the domain name myhostingfree.com to be confusingly similar to complainant's MYHOSTING mark, stating, "This similarity is established whenever a mark is incorporated in its entirety, regardless of other terms added to the domain name).

Finally, the additions of a 'hyphen' and the generic top-level domain '.com' does nothing to distinguish the Disputed Domain from Complainant's mark. See, e.g., InfoSpace.com, Inc. v. Ofer, D2000-0075 (WIPO Apr. 27, 2000) (finding that "[t]he domain name 'info-space.com' is identical to Complainant's INFOSPACE trademark. The addition of a hyphen and .com are not distinguishing features"). Thus, the <fujitsu-global.com> domain name is confusingly similar to Complainant's FUJITSU trademark. Therefore, Complainant has established the first element of the Policy under paragraph 4(a).

B. RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTEREST IN THE DISPUTED DOMAINS

The second element of a UDRP claim only requires that the complainant make a prima facie showing that respondent lacks a right or legitimate interest in the disputed domain name. Accor v. Eren Atesmen, Case No. D2009-0701 (WIPO Jul. 10, 2009). Once a complainant has made such a showing, the burden shifts to the respondent to demonstrate that it has rights or legitimate interest in the disputed domain name. See, e.g., Mile, Inc. v. Michael Burg, Case No. D2010-2011 (WIPO Feb. 7, 2011).

In this case, it is clear that Respondent has no rights or legitimate interest in the disputed domain name. Respondent not only registered the disputed domain name many decades after Complainant's rights in the FUJITSU mark were registered, but is using the disputed domain name to confuse consumers as to the source of the website, prompting users to enter

sensitive personal information for Respondent's own gain. Conversely, Complainant has demonstrated longstanding, exclusive use of the FUJITSU trademark, and Complainant's rights predate any registration or use of the disputed domain name by Respondent by some 54 years.

In considering whether a respondent has a right or legitimate interest in a disputed domain under Paragraph 4(c) the panel may consider: (i) whether the respondent is using the disputed domain in connection with a bona fide offering of goods or services; (ii) whether the respondent is commonly known by the disputed domain; and (iii) whether the respondent is making a legitimate noncommercial use or fair use of the disputed domain. See Paragraph 4(c).

Respondent Does Not Use, and Has Not Used, the Disputed Domain Name in Connection with a Bona Fide Offering of Goods or Services

The use of a domain name that is confusingly similar to a complainant's mark to direct internet users to a "phishing" website does not constitute a bona fide offering of goods and services. Blackstone TM L.L.C. v. Mita Ireland Limited c/o Michael Buotenko, Claim No. FA1003001314998 (Nat. Arb. Forum April 30, 2010). Here, Respondent has created a deliberate false association with Complainant by using Complainant's FUJITSU mark, in its entirety, within the Disputed Domain to operate a website that is actively phishing for user information by prompting the user to contact Respondent, or to submit an application containing highly sensitive and personal, financial information. Requesting that users disclose highly sensitive personal information, including marital status, net worth, employment status and more, is a clear attempt to obtain valuable consumer information for Respondents own gain, which does not constitute a bona fide offering of goods or services. See, e.g., Blackstone TM L.L.C. v. Mita Ireland Limited c/o Michael Buotenko, Claim No. FA1003001314998 (Nat. Arb. Forum April 30, 2010) (finding no bona fide offering of goods or services when the disputed domain resolved to the website of a "purported" financial company that was being used "to defraud unsuspecting investors by falsely creating an association with Complainant"); Allianz of America Corporation v. Lane Bond d/b/a Allianzcorp, Claim No. FA0604000690796 (Nat. Arb. Forum June 12, 2006) (finding that respondent's use of the disputed domain "to fraudulently acquire the personal and financial information of Internet users" was not a bona fide offering of goods or services.); The Lincoln Electric Company v. David Vargo, Claim No. FA1704001725364 (Nat. Arb. Forum May 10, 2017) (finding that using "the disputed domain as part of a 'phishing' scheme intended to deceive a third party" was not a bona fide offering of goods or services).

Respondent is not Commonly known by the Disputed Domain Name

There is no evidence that Respondent is commonly known by the disputed domain name. See Braun Corp. v. Loney, Claim No. 699652 (NAF July 7, 2006) (finding respondent was not commonly known by the disputed domain names where neither the Whois record or any other evidence of record indicated such). Respondent's use of a privacy service to mask its identity only further supports the notion that Respondent is not commonly known by the Disputed Domain. See LK International AG v. Fundacion Private Whois, Case No. D2013-0135 (WIPO Mar. 4, 2013) (finding that the respondent was not commonly known by the disputed domain where respondent employed a privacy service and the Whois record gave no indication that respondent was commonly known by the disputed domain); Pima Fed. Credit Union v. Whois Privacy Corp., Case No. 100979 (CAC Aug. 20, 2015) (finding that the respondent, who utilized a privacy service, was not commonly known by the disputed domain).

Respondent Does Not Use the Disputed Domains for Any Legitimate or Noncommercial Fair Use

The use of a domain name to "phish for" or to deceptively gather consumer information, is not a legitimate or noncommercial fair use. See, e.g., Blackstone TM L.L.C. v. Mita Ireland Limited c/o Michael Buotenko, Claim No. FA1003001314998 (Nat. Arb. Forum April 30, 2010); Allianz of America Corporation v. Lane Bond d/b/a Allianzcorp, Claim No. FA0604000690796 (Nat. Arb. Forum June 12, 2006) (finding that respondent's use of the disputed domain "to fraudulently acquire the personal and financial information of Internet users" was not a legitimate noncommercial or fair use.). Here, Respondent is merely using the disputed domain name to direct Internet users to a "phishing" website, i.e. the

Infringing Website, where Respondent seeks (via both the Contact and Account Pages) to gather highly sensitive user information, including name, address, net worth, and much more. Such use of the disputed domain name cannot, therefore, constitute any legitimate noncommercial or fair use.

Fujitsu has met its burden to make a prima facie showing that the Respondent has no rights or legitimate interest in the disputed domain name. As such, the burden shifts to the Respondent to rebut Complainant's showing. However, the evidence strongly demonstrates that Respondent lacks any rights or legitimate interest in the disputed domain name and will be unable to establish its burden.

C. THE DISPUTED DOMAIN WAS REGISTERED AND IS BEING USED IN BAD FAITH

Respondent Intentionally Attempted to Divert Internet Users by Creating Likelihood of Confusion

Respondent has registered and/or used a domain name in bad faith where the purpose of the registration is to confuse consumers as to the source of the website. Under Paragraph 4(b)(iv) the Panel may make a finding that the registrant has registered and used a domain name in bad faith where "by using the domain name, [the registrant has] intentionally attempted to attract, for commercial gain, Internet users to [its] web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [registrant's] web site or location or of a product or service on [registrant's] web site or location."

Here, Respondent is clearly attempting to create a likelihood of confusion as to the source, sponsorship, affiliation and/or endorsement of the websites associated with the disputed domain name. Not only does Respondent use Complainant's FUJITSU mark without authorization, but Respondent also employs language to lead consumers to believe that the Infringing Website was created by Fujitsu. For example, Respondent prominently displays the Fujitsu mark at the top of the home page of the Infringing Website and uses the FUJITSU mark throughout, including references to "FujitsuGolbal" a name under which Complainant routinely operates, including on its Twitter and YouTube accounts.

In addition to the unauthorized use of Complainant's mark, the Infringing Website is intentionally formatted to mimic Complainant's Website, as evinced by the fact that Respondent utilized the color red to highlight the Fujitsu mark in the top left corner of the home page and included the identical wording "Fujitsu Global" on the browser tab. See Annex 5. Such uses are essentially identical to Fujitsu's own website and are a blatant attempt to lead users to believe that Fujitsu owns and operates the Infringing Website. Accordingly, the registration of the confusingly similar disputed domain name in conjunction with rampant, unauthorized use of the FUJITSU trademark and attempted mimicry of Complainant's Website no doubt amounts to bad faith registration and use. See H-D Michigan, Inc. v. Petersons Automobile a/k/a Larry Petersons, FA 135608 (Nat'l Arb. Forum Jan. 8, 2003) (finding the disputed domain was registered and used in bad faith where "Respondent [] intentionally attempt[ed] to attract Internet users to its fraudulent website by using Complainant's famous marks and likeness").

Respondent Registered the Disputed Domain Name Primarily for the Purpose of Disrupting Complainant's Business

Respondent is using the disputed domain name for no other reason than to disrupt Complainant's business by using the associated Infringing Website to "phish" for highly sensitive personal information under the guise of providing purported financial services. Many Panels have ruled that "phishing" activity disrupts business within the provisions of paragraph 4(b)(iii) of the Policy. See, e.g., Blackstone TM L.L.C. v. Mita Ireland Limited c/o Michael Buotenko, Claim No. FA1003001314998 (Nat. Arb. Forum April 30, 2010) (finding that respondent had disrupted complainant's business by "using the disputed domain to 'phish' for users' personal information", and that, "[r]espondent presumably profits" from the action). Clearly Respondent is not operating a legitimate business, else it would not need to rely on duping consumers into believing that it was associated with Complainant through rampant use of Complainant's marks, mimicking Complainant's website, and using a name (Fujitsu Global) that is not only confusingly similar to Complainant's FUJITSU mark, but is identical to a name by which Complainant is commonly known (Fujitsu Global). Nor would Respondent's phone number be listed on a website that identifies consumer scams, stating that the Infringing Website is "fake". Any resulting consumer blowback that results

from Respondent's actions will no doubt cause a disruption to Complainant's business and damage Complainant's goodwill in its FUJITSU mark.

Respondent Was or Should Have Been Aware of Fujitsu's Rights in the FUJITSU Mark and Registered the Disputed Domain Name in Bad Faith

Complainant's trademark rights date back to at least as early as 1962. Since that time Complainant has expended substantial amounts of time and effort to ensure that consumers associate the FUJITSU trademark with Fujitsu and its services. Such efforts include numerous U.S. and foreign trademark registrations for the FUJITSU trademark, and major expenditures in advertising throughout the world. As a result of such efforts, the FUJITSU mark has achieved international fame.

The disputed domain name was not created until well over fifty years after Complainant's trademark rights were first registered, and is confusingly similar to the FUJITSU trademark, discussed supra. The fact that Respondent displays the FUJITSU trademark on the Infringing Website, and in text identical to that of Complainant's within the browser tab, indisputably demonstrates that the Registrant was aware of the FUJITSU trademark, and that Respondent registered the disputed domain name with the bad faith intent to confuse consumers as to the source and/or sponsorship of the disputed domain name.

Even if Respondent did not have actual knowledge of the FUJITSU mark (which it clearly did), Respondent had a duty to ensure that the registration of the Disputed Domain would not infringe a third party's rights. See, e.g, Collegetown Relocation, L.L.C. v. John Mamminga, FA 95003 (Nat'l Arb. Forum Jul. 20, 2000) (stating that "[w]hen registering domain names, the respondent has a duty to investigate and refrain from using a domain name that infringes on a third-party's rights"). Had Respondent performed a simple Google search, it would have been presented with numerous search results relating and/or referring to Complainant and the existence of Complainant's rights in the FUJITSU mark. Respondent apparently failed to discharge its duty to conduct a basic investigation as to the trademark rights of third parties, as such the disputed domain name was registered in bad faith.

Thus, it is clear that Respondent knowingly registered and has used the disputed domain name to not only confuse customers as to the source of the Infringing Website, but also to disrupt Complainant's business, evidencing Respondent's bad faith use and registration of the disputed domain name.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i)of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii)of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii)of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

i) The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i)of the Policy).

The Complainant is the owner of the above-listed registrations for the trademark “FUJITSU”.

The Complainant argues that the disputed domain name <fujitsu-global.com> is confusingly similar to the Complainant’s mark. The disputed domain name <fujitsu-global.com> is comprised of the FUJITSU trademark (in its entirety) merely adding a ‘hyphen’ (discussed infra), and the generic term ‘global’. It is well established that the addition of a generic term to a trademark does not avoid a finding of confusion. See Sharman License Holdings, Limited v. Mario Dolzer, Case No. D2004-0935 (WIPO Jan. 31, 2006).The consensus of UDRP decisions is that the addition of the generic term ‘global’ does not create a new mark or avoid a finding of confusing similarity. See e.g. Philip Morris USA Inc. v. Kevin Perkins, American Technocratic Party / Contact Privacy Inc. Customer 124739395, Case No. D2017-0437 (WIPO May 15, 2017) (<philipmorrisglobal.com>); London Capital Group Limited v. shanghaijianotong maoyiyouxiangongsi, Case No. D2016-2633 (WIPO Feb. 16, 2017) (<lcgfxglobal.com>); BASF SE v. Whois Privacy Protection Service, Inc. / Tah Teche, Cranium Developers, Case No. D2016-1902 (WIPO Nov. 8, 2016) (<basf-global.com>); WeWork Companies, Inc. v. Michael Chiriac, Various Concepts Inc., Case No. D2016-1817 (WIPO Oct. 17, 2016) (<weworkglobal.com>). Moreover, the incorporation of a well-known trademark within a domain name (as is the case here) is alone enough to sustain a finding of confusing similarity. See, e.g., SoftCom Technology Consulting Inc. v. Olariu Romeo/Orv Fin Group S.L., Case No. D2008-0792 (WIPO Jul. 8, 2008) (finding the domain name myhostingfree.com to be confusingly similar to complainant’s MYHOSTING mark, stating, “This similarity is established whenever a mark is incorporated in its entirety, regardless of other terms added to the domain name).

The Complainant argues also the additions of a ‘hyphen’ and the generic top-level domain ‘.com’ does nothing to distinguish the disputed domain name from Complainant’s mark. See, e.g., InfoSpace.com, Inc. v. Ofer, D2000-0075 (WIPO Apr. 27, 2000) (finding that “[t]he domain name ‘info-space.com’ is identical to Complainant’s INFOSPACE trademark. The addition of a hyphen and .com are not distinguishing features”). The Panel agrees with the Complainant that the <fujitsu-global.com> domain name is confusingly similar to Complainant’s FUJITSU trademark.

ii) The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii)of the Policy).

The Panel agrees with the Complainant's argument that the second element of a UDRP claim only requires that the complainant make a prima facie showing that respondent lacks a right or legitimate interest in the disputed domain name. Accor v. Eren Atesmen, Case No. D2009-0701 (WIPO Jul. 10, 2009). Once a complainant has made such a showing, the burden shifts to the respondent to demonstrate that it has rights or legitimate interest in the disputed domain name. See, e.g., Mile, Inc. v. Michael Burg, Case No. D2010-2011 (WIPO Feb. 7, 2011).

The Complainant contends that Respondent has created a deliberate false association with Complainant by using Complainant’s FUJITSU mark, in its entirety, within the disputed domain name to operate a website that is actively phishing for user information by prompting the user to contact Respondent, or to submit an application containing highly sensitive and personal, financial information. Requesting that users disclose highly sensitive personal information, including marital status, net worth, employment status and more, is a clear attempt to obtain valuable consumer information for Respondent’s own gain, which does not constitute a bona fide offering of goods or services. Therefore, the Panel agrees that Respondent does not use, and has not used, the disputed domain name in connection with a bona fide offering of gods or services. The Panel notes that Respondent is merely using the disputed domain name to direct Internet users to a “phishing” website, i.e. the Infringing Website, where Respondent seeks (via both the Contact and Account Pages) to gather highly sensitive user information, including name, address, net worth, and much more. The Panel finds that the use of a domain name to “phish for” or to deceptively gather consumer information, is not a legitimate or noncommercial fair use.

The Panel concludes that Complainant has met its burden to make a prima facie showing that the Respondent has no rights or legitimate interest in the disputed domain name. As such, the burden shifts to the Respondent to rebut Complainant’s

showing. However, in the absence of the Response, the Panel finds that the Respondent lacks any rights or legitimate interest in the disputed domain name.

iii) The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii)of the Policy).

The Panel notes that the Respondent is clearly attempting to create a likelihood of confusion as to the source, sponsorship, affiliation and/or endorsement of the websites associated with the disputed domain name. Not only does Respondent use Complainant's FUJITSU mark without authorization, but Respondent also employs language to lead consumers to believe that the Infringing Website was created by Fujitsu. For example, Respondent prominently displays the Fujitsu mark at the top of the home page of the Infringing Website and uses the FUJITSU mark throughout, including references to "FujitsuGolbal" a name under which Complainant routinely operates, including on its Twitter and YouTube accounts.

The Complainant further avers that in addition to the unauthorized use of Complainant's mark, the Infringing Website is intentionally formatted to mimic Complainant's Website, as evinced by the fact that Respondent utilized the color red to highlight the Fujitsu mark in the top left corner of the home page and included the identical wording "Fujitsu Global" on the browser tab. Such uses are essentially identical to Fujitsu's own website and are a blatant attempt to lead users to believe that Fujitsu owns and operates the Infringing Website. Accordingly, the Panel finds that the registration of the confusingly similar disputed domain name in conjunction with rampant, unauthorized use of the FUJITSU trademark and attempted mimicry of Complainant's Website no doubt amounts to bad faith registration and use. See H-D Michigan, Inc. v. Petersons Automobile a/k/a Larry Petersons, FA 135608 (Nat'l Arb. Forum Jan. 8, 2003) (finding the disputed domain was registered and used in bad faith where "Respondent [] intentionally attempt[ed] to attract Internet users to its fraudulent website by using Complainant's famous marks and likeness").

The Panel also notes that the Respondent is using the disputed domain name for no other reason than to disrupt Complainant's business by using the associated Infringing Website to "phish" for highly sensitive personal information under the guise of providing purported financial services by the evidence the Complainant has submitted. Many Panels have ruled that "phishing" activity disrupts business within the provisions of paragraph 4(b)(iii) of the Policy. See, e.g., Blackstone TM L.L.C. v. Mita Ireland Limited c/o Michael Buotenko, Claim No. FA1003001314998 (Nat. Arb. Forum April 30, 2010) (finding that respondent had disrupted complainant's business by "using the disputed domain to 'phish' for users' personal information", and that, "[r]espondent presumably profits" from the action). Clearly Respondent is not operating a legitimate business, else it would not need to rely on duping consumers into believing that it was associated with Complainant through rampant use of Complainant's marks, mimicking Complainant's website, and using a name (Fujitsu Global) that is not only confusingly similar to Complainant's FUJITSU mark, but is identical to a name by which Complainant is commonly known (Fujitsu Global). Nor would Respondent's phone number be listed on a website that identifies consumer scams, stating that the Infringing Website is "fake". The Panel agrees that any resulting consumer blowback that results from Respondent's actions will no doubt cause a disruption to Complainant's business and damage Complainant's goodwill in its FUJITSU mark.

The Panel notes that Complainant's trademark rights date back to at least as early as 1962. Since that time Complainant has expended substantial amounts of time and effort to ensure that consumers associate the FUJITSU trademark with Fujitsu and its services. Such efforts include numerous U.S. and foreign trademark registrations for the FUJITSU trademark, and major expenditures in advertising throughout the world. As a result of such efforts, the Panel recognizes that the FUJITSU mark has achieved international fame. The Panel observes that the disputed domain name was not created until well over fifty years after Complainant's trademark rights were first registered, and is confusingly similar to the FUJITSU trademark, discussed supra. The Panel infers that the Registrant was aware of the FUJITSU trademark, and that Respondent registered the disputed domain name with the bad faith intent to confuse consumers as to the source and/or sponsorship of the disputed domain name from the fact that the Respondent displays the FUJITSU trademark on the Infringing Website, and in text identical to that of Complainant's within the browser tab.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **FUJITSU-GLOBAL.COM**: Transferred

PANELLISTS

Name	**Mr. Ho-Hyun Nahm, Esq.**

DATE OF PANEL DECISION 2017-08-16

Publish the Decision