Decision for dispute CAC-UDRP-102664

Case number	CAC-UDRP-102664
Time of filing	2019-09-17 08:58:08
Domain names	ignition-techology.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	Ignition Technology Ltd.

Complainant representative

Organization	RiskIQ, Inc. c/o Jonathan Matkowsky

Respondent

Name	Accounts .

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

Complainant trade name is Ignition Technology Limited. Complainant using a corporate website accessible from its corporate domain name <ignition-technology.com>. Its website at www.ignition-technology.com has been publicly accessible at least since March 2015 according to public web archives, and the domain name was created in January 2015 when it was first incorporated, according to public Whois records.

Ignition Technology was named as RiskIQ's first European channel partner shortly after commencing operations, and has been featured on RiskIQ's website ever since. RiskIQ is the recognized leader in attack surface management. The Complainant trade name Ignition Technology has been featured on many of its partners' websites since 2015, has appeared in numerous press releases issued by vendors it has partnered with, and when it does add a company to its portfolio, it is picked up by industry trade publications related to its niche space. In November, a joint press release with Cisco's Duo Security appeared in one of the world's largest newswire distribution networks. Complainants trade name Ignition Technology made the 2019 Shortlist - CRN Channel Awards as Cloud Distributor of the Year.

FACTUAL BACKGROUND

The Complainant, a company incorporated as private limited by shares, having a registered office situated in England and Wales under the Register of Companies for England and Wales (Company number 09380523) changed its name to IGNITION TECHNOLOGY LTD on January 15, 2015.

With a corporate website accessible from its corporate domain name <ignition-technology.com>, the Complainant specialises in the discovery and distribution of innovative, next-generation IT security and networking solutions. It allows channel partners to architect solutions that better protect their customers, with access to new technology, services and Ignition's technical expertise. The Complainants team rigorously researches, identifies and tests the latest solutions to help partners add new revenue streams and reach new customers. Its website at www.ignition-technology.com has been publicly accessible at least since March 2015 according to public web archives, and the domain name was created in January 2015 when it was first incorporated, according to public Whois records.

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The Complainant states, that the disputed domain name was registered and used to scam Complainant customers through Business E-mail Compromise (BEC).

Complainant points out, that the disputed domain name is substantially indistinguishable from Complainant's corporate name IGNITION TECHNOLOGY and their domain name <ignition-technology.com>. It is deliberately intended to appear as the legitimate domain name of Complainant by omitting a letter in the descriptive word "technology," so that e-mails sent from the domain name that is subject of the Complaint appear to be originating from the legitimate domain name of Complainant, which Ignition Technology naturally uses for communicating with its customers continuously since 2015 prior to when the domain name subject of the Complaint was first created (registered). Look alike domain names illegitimately targeting a company for BEC are of course considered to be registered and used in bad-faith under the Policy.

Respondent targeted the finance administrator of one of Complainant's customers by impersonating Complainants accounting to send a spoofed invoice of Complainant with banking details for Respondent, so that funds intended for Complainant would be sent to Respondent instead. Complainant had asked the finance administrator for one of its customers on August 8 for a status update on a payment due shortly, and four days later, Respondent sent a targeted e-mail from the substantially indistinguishable domain name subject of the Complaint in the name of the specific accountant of Complainant with whom the specific finance administrator at Complainant's customer had been communicating: "I just realised I did not update our invoice as we have recently updated our banking details, could you please view the attached invoice and update our new Barclays banking details to your system for the upcoming payment." On August 22, when the accountant of Complainant followed-up with its customer's finance administrator on the statement of account, Complainant learned that its customer had mistakenly fallen victim to the BEC scam, and sent in excess of £53,000.00 to an account number provided by Respondent in an e-mail sent from the disputed domain name impersonating Complainant's accountant with whom its customer had been communicating.

In the view of Complainant it is widely accepted that particularly considering the global nature of the Internet and Domain Name System, the fact that a complainant's unregistered name or mark has become associated with a single source of origin only in particular market niche does not prevent a complainant from establishing relevant rights for purposes of standing under the UDRP.

When a complainant can establish a look-a-like domain name was registered and used for BEC, the very fact that a respondent is shown to have been targeting the complainant's name or mark, in and of itself, is strong evidence in support of the complainant's standing under the first element of the Policy: The respondent's harmful BEC operation or campaign itself

relies on the look-a-like-domain, in this case substantially indistinguishable from its business name and mark, to deceptively serve as an indicator that the scam e-mails are in fact being transmitted from the complainant as a single source of origin.

This reliance is precisely because the look-a-like domain name resembles in fact, a name or mark associated exclusively with complainant by the targeted victims. This strong evidence of secondary meaning combined with the goodwill in its corporate name built up through continuous use over years, including continuous use of its own domain name incorporating its trade name since 2015, media recognition, and promotional material and advertising including by its partner vendors, is more than adequate for purposes of establishing unregistered rights for UDRP standing against a domain registered and used for BEC.

Complainant further states, that the disputed domain name is substantially indistinguishable (and certainly confusingly similar as evidenced by the actual confusion of record) to Complainant's incorporated business name, corporate domain name, website, and unregistered rights in its name and/or mark, and was registered in bad-faith to defraud Complainant's customers, and unfortunately, was successfully used for such purposes. Since that time, the domain name has been suspended as evidenced by the fact it has been placed on HOLD status by the registrar but just because a site or domain name is currently suspended at the time of submission of a UDRP complaint does not mean a domain was not registered and used in bad faith under the Policy.

Finally the Complainant states that the essence of the wrongdoing in this case is so harmful and obviously bad-faith that to point out that Respondent masked his or her identity in a layered onion seems to almost trivialise the scam itself, but that said, false contact information supports a finding of bad faith registration and use, which is present here as there is no person named "Accounts ." Thus Respondent did not use a proxy for legitimate purposes but to mask its false identity, which supports bad faith registration and use.

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

A. Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

No evidence has been provided by the Complainant as to the registration of the trademark "Ignition Technology". In any

event paragraph 4(a) of the Policy is not limited to registered trade marks. Past panels have consistently upheld the position that the Policy does not discriminate against unregistered trademarks (e.g, The British Broadcasting Corporation v. Jaime Renteria, WIPO Case No. D2000-0050; XIHA Oy v. Qiu Shengjie, Chen Qing Mei, WIPO Case No. D2010-1204). Based on the evidence provided, the Panel is of the view that Ignition Technology is clearly used by the Complainant as a trade mark in relation to its goods and that it has become a distinctive identifier associated with the Complainant prior to the registration date of the disputed domain name.

Therefore, for purposes of the Policy, the Panel finds that the Complainant has rights in the unregistered trade marks Ignition Technology.

The trademark Ignition Technology is incorporated in its entirety in the disputed domain name. The only difference between the disputed domain name and the unregistered trademark Ignition Technology is the missing "N" in the middle of the disputed domain name, which is very hard to even recognize.

The Panel accepts that the disputed domain name is confusingly similar to the trademark as it fully incorporates the established trademark despite the letter "N" in the middle of the disputed domain name. The only difference is the deletion of the letter “N”, which is not sufficient to escape the finding that the domain name is confusingly similar to the unregistered trademark Ignition Technology.

Therefore, the Panel holds that the disputed domain name is confusingly similar to the trademark Ignition Technology.

The first limb of paragraph 4(a) of the Policy is established.

B. Rights or Legitimate Interests

When a respondent remains completely silent in the face of a prima facie case that it lacks any rights or legitimate interests in respect of a domain name, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy. Here the Complainant has presented an abundance of evidence to show that the Respondent has no plausible right or legitimate interest in respect of the disputed domain name and the Panel so finds.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Bad Faith

The Panel agrees with Complainant, that the disputed domain name is substantially indistinguishable to Complainant's incorporated business name, corporate domain name, website, and unregistered rights in its name and/or mark, and was registered in bad-faith to defraud Complainant's customers. As shown by the presented evidence, Respondent used the look-a-like domain Name for Business E-mail Compromise (BEC) and Respondent actually was successful using the disputed domain name for such purposes.

Furthermore Respondent masked his or her identity in a layered onion using a privacy provider and false contact information, as it is very unlikely that Respondent is named "Accounts ." This also supports a finding of bad faith registration and use, thus Respondent did not use a proxy for legitimate purposes but to mask its false identity, which supports bad faith registration and use.

Finally, the Panel finds, that Respondent’s registration and use of a domain name that differs from Complainant’s very long trade name by only one letter in the middle of the domain name indicates “typosquatting”, which is also evidence of bad faith registration and use (see FORUM Case No. 157321, Computerized Sec. Sys., Inc. v. Bennie Hu).

On these grounds, the Panel concludes that the Respondent has registered and is using the disputed domain name in bad faith.

For the reasons stated above, it is the decision of this Panel that the Complainant has satisfied all three elements of paragraph 4(a) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **IGNITION-TECHOLOGY.COM**: Transferred

PANELLISTS

Name	**Jan Christian Schnedler, LL.M.**

DATE OF PANEL DECISION 2019-10-11

Publish the Decision