

Decision for dispute CAC-UDRP-104670

Case number CAC-UDRP-104670

Time of filing 2022-07-11 10:15:02

Domain names adeccousa-mail.com

Case administrator

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

Complainant

Organization Adecco Group AG

Complainant representative

Organization BRANDIT GmbH

Respondent

Name Victor Uwalaka

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

The Complainant owns rights in the mark 'ADECCO' in several countries and regions, inter alia:

- The Swiss trademark ADECCO No. P-431224, registered on September 26, 1996;
 - The European Union trademark ADECCO No. 3330149, registered on January 19, 2005;
 - The International trademark ADECCO No. 666347, registered on October 17, 1996; and
 - The United States trademark ADECCO No. 2209526, registered on December 8, 1998.
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FACTUAL BACKGROUND

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

The Complainant is the world's leading workforce solutions company, helping over 100,000 organizations with their talent

needs as well as enabling millions of people to develop their skills and exceed their potential. The Complainant brings job seekers and employers together to achieve maximum impact. The Complainant has 32,000 employees in more than 60 countries and territories, including the United States. It places around 600,000 associates into roles daily, enabling flexibility and agility for its clients.

The disputed domain was registered on April 19, 2022. The disputed domain name has resolved to a website that hosts hyperlinks to various competitors' websites.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

- i) The Complainant owns rights in the mark 'ADECCO.' The disputed domain name is confusingly similar to the Complainant's mark as it incorporates the Complainant's mark in its entirety with the addition of the acronym "USA" and a descriptive term 'mail.'
- ii) The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has not licensed or authorized the Respondent to register or use the disputed domain name, nor is the Respondent affiliated to the Complainant in any form. There is no evidence that the Respondent is known by the disputed domain name or owns any corresponding registered trademarks. The Respondent's name "Victor Uwala" does not correspond to the disputed domain name. The structure of the disputed domain name reveals that the Respondent's initial intention in registering the disputed domain name was to refer to the Complainant, its trademark and business activities. The disputed domain name has been used to commit fraud by impersonating the Complainant, specifically by conducting a phishing scheme. The disputed domain name resolves to a pay-per-click page which displays a relevant sponsored link entitled "Recruitment Agency" which leads to another page also containing links related to hiring such as 'Top Jobs Recruitment Agencies.'
- iii) The Respondent has registered and is using the disputed domain name in bad faith. The Respondent registered the disputed domain name many years after the registrations of the Complainant's ADECCO trademarks. The ADECCO trademark is a widely known trademark registered in many countries and the Complainant enjoys a strong online presence. Therefore, the Respondent had knowledge of the Complainant and its rights in the ADECCO trademark at the time of the registration of the disputed domain name. The Respondent has registered and used the disputed domain name to take advantage of the Complainant's widely known trademark ADECCO and engage in phishing scheme. The disputed domain name resolves to a pay-per-click page which is likely to generate revenues when Internet users click on the links displayed therein. Active MX records are associated with the disputed domain name.

RESPONDENT:

Respondent did not submit a response in this proceeding.

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

Paragraph 15(a) of the Rules for the UDRP ('the Policy') instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Paragraph 4(a) of the Policy requires that Complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- (1) the domain name registered by respondent is identical or confusingly similar to a trademark or service mark in which complainant has rights; and
- (2) respondent has no rights or legitimate interests in respect of the domain name; and
- (3) the domain name has been registered and is being used in bad faith.

In view of the Respondent's failure to submit a response, the Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations and inferences set forth in the Complaint as true unless the evidence is clearly contradictory. See *Vertical Solutions Mgmt., Inc. v. webnet-marketing, inc.*, FA 95095 (FORUM July 31, 2000) (holding that the respondent's failure to respond allows all reasonable inferences of fact in the allegations of the complaint to be deemed true); see also *Talk City, Inc. v. Robertson*, D2000-0009 (WIPO Feb. 29, 2000) ("In the absence of a response, it is appropriate to accept as true all allegations of the Complaint.").

Rights

The Complainant claims rights in the mark ADECCO as identified in the section 'Identification of Rights' above. The Panel notes that a national or regional trademark registration or an international trademark registration is sufficient to establish rights in that mark. As such, the Panel finds that the Complainant has established rights in the mark ADECCO.

The Complainant contends that the disputed domain name <adeccousa-mail.com> is confusingly similar to the Complainant's mark because the disputed domain name incorporates the Complainant's mark in its entirety with the addition of the acronym 'USA' and a descriptive term 'mail.' The Panel notes that the addition of a geographical term, the acronym "USA" referring to the country the United States does not prevent a finding of confusing similarity to the Complainant's mark. The Panel further notes that the addition of the descriptive term 'mail' and the gTLD extension '.com' does not prevent a finding of confusing similarity to the Complainant's mark. Therefore, the Panel finds that the disputed domain name is confusingly similar to the Complainant's mark ADECCO.

No rights or legitimate interests

Complainant must first make a prima facie case that Respondent lacks rights and legitimate interests in the disputed

domain name under Policy paragraph 4(a)(ii), then the burden shifts to Respondent to show it does have rights or legitimate interests. See *Croatia Airlines d. d. v. Modern Empire Internet Ltd.*, WIPO Case No. D2003-0455 (the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the UDRP). See also *Advanced International Marketing Corporation v. AA-1 Corp*, FA 780200 (FORUM Nov. 2, 2011) (finding that a complainant must offer some evidence to make its prima facie case and satisfy Policy paragraph 4(a)(ii).

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has not licensed or authorized the Respondent to register or use the disputed domain name, nor is the Respondent affiliated to the Complainant in any form. There is no evidence that the Respondent is known by the disputed domain name or owns any corresponding registered trademarks. The Respondent's name "Victor Uwala" does not correspond to the disputed domain name. The structure of the disputed domain name reveals that the Respondent's initial intention in registering the disputed domain name was to refer to the Complainant, its trademark and business activities. The disputed domain name has been used to commit fraud by impersonating the Complainant, specifically by conducting a phishing scheme. The disputed domain name resolves to a pay-per-click page which displays a relevant sponsored link entitled "Recruitment Agency" which leads to another page also containing links related to hiring such as 'Top Jobs Recruitment Agencies.'

The Panel finds that the use of the disputed domain name to impersonate the Complainant by conducting a phishing scheme and to display a pay-per-click page leads to the Complainant's competitors' websites does not constitute a bona fide offering of goods. Such a use of the disputed domain name is not considered as making a legitimate, non-commercial or fair use of the disputed domain name. There is nothing in the records to rebut the Complainant's assertion that the Respondent has not been commonly known by the disputed domain name. The Panel finds that the Complainant has made out a prima facie case that arises from the considerations above. All of these matters go to make out the prima facie case against the Respondent. As the Respondent has not filed a Response or attempted by any other means to rebut the prima facie case against it, the Panel concludes that the Respondent has no rights or legitimate interests in the disputed domain name.

Bad faith

Paragraph 4(b) of the Policy provides a non-exclusive list of circumstances that evidence registration and use of a domain name in bad faith. Any one of the following is sufficient to support a finding of bad faith:

(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that the complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the 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 the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith. The Complainant asserts that the Respondent registered the disputed domain name with actual knowledge of the Complainant and the ADECCO trademark at the time of the registration of the disputed domain name. The Panel notes that the Respondent registered the disputed domain name on April 19, 2022 many years after the registrations of the Complainant's ADECCO trademarks since 1996. The ADECCO trademark is a widely known trademark registered in many countries and the Complainant enjoys a strong online presence. The Panel further notes that the disputed domain name has resolved to a website hosting hyperlinks to the Complainant's competitors. The Panel infers, due to the notoriety and the manner of use of the disputed domain name that the Respondent had knowledge of the Complainant and its rights in the ADECCO mark at the time of the registration of the disputed domain name, which supports a finding of bad faith registration of the disputed domain name per paragraph 4(a)(iii) of the Policy.

Next, the Complainant contends that the Respondent has registered and used the disputed domain name to take advantage of the Complainant's widely known trademark ADECCO and engage in phishing scheme. The disputed domain name has been used to commit fraud by impersonating the Complainant, specifically by conducting a phishing scheme. The Panel references that the disputed domain name was registered on April 19, 2022, and shortly after it was used in an e-mail address to send fraudulent phishing e-mails – impersonating the Complainant and its affiliated company Adecco USA, Inc. – to third-party individuals. These fraudulent e-mails are part of a fraudulent scheme which lures individuals replying to a fake job advertisement published online. After having applied to this job advertisement, third party individuals have been contacted and involved in a false recruitment process. Once the victims have been through this fake recruitment procedure and have been allegedly hired, they have received an e-mail – sent from the e-mail address using the disputed domain name – comprising a counterfeit check. The victims have been instructed to deposit the funds. The Complainant has provided evidence that an individual victim of this fraud, being deceived, did deposit the counterfeit check and send the funds to the fraudster. The Panel agrees and finds that the disputed domain name has been used to perpetrate a fraudulent scheme which misleads Internet users into believing that they have been personally contacted and hired by the Complainant or its affiliated company Adecco or Adecco USA Inc. which constitutes bad faith use of the disputed domain name.

The Complainant further asserts that the disputed domain name resolves to a pay-per-click page which is likely to generate revenues when Internet users click on the links displayed therein. The Panel notes from the screenshot of the disputed domain's resolving website which hosts hyperlinks to the Complainant's competitors, e.g., a link entitled 'Recruitment Agency' which leads to another page also containing links related to hiring such as 'Top Jobs Recruitment Agencies – 100 new jobs added every hour. The Panel observes that hosting hyperlinks that compete with a complainant may be evidence of bad faith under paragraph 4(b)(iv) of the Policy. See American Council on Education and GED Testing Service LLC v. Anthony Williams, FA1760954 (Forum January 8, 2018) ("Respondent's hosting of links to Complainant's competitors demonstrates bad faith registration and use of the <geddiploma.org> domain name pursuant to Policy paragraph 4(b)(iv)"). The resolving website displays hyperlinks related to job recruitment and employment that direct users to websites of competitors of the Complainant. Therefore, the Panel finds that the Respondent registered and uses the disputed domain name in bad faith per paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. ADECCOUSA-MAIL.COM: Transferred

PANELLISTS

Name	Mr. Ho-Hyun Nahm, Esq.
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DATE OF PANEL DECISION 2022-08-09

Publish the Decision
