

Decision for dispute CAC-UDRP-105324

Case number CAC-UDRP-105324

Time of filing 2023-03-30 09:19:25

Domain names adeccogroupa.com

Case administrator

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

Complainant

Organization Adecco Group AG

Complainant representative

Organization BRANDIT GmbH

Respondent

Name John Finch Adecco Group

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 is a worldwide recognized workforce solutions company, who assists 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 has 38,000 employees in more than 60 countries and territories, including in Canada. The Complainant places around 600,000 associates into roles daily, enabling flexibility and agility for its clients.

The Complainant owns the following Trademarks:

- Swiss Trademark ADECCO, Reg. No. P-431224, registered on September 26, 1996, in classes 35, 41 and 42, and in force until May 9, 2026;

- Swiss Trademark ADECCO, Reg. No. P-549358, registered on August 18, 2006, in classes 9, 35, 36, 41 and 42, and in force until March 1, 2026;

- European Union Trademark ADECCO, Reg. No. 3330149, registered on January 19, 2005, in classes 35, 41 and 42, and in force until August 27, 2023;

- International Trademark ADECCO, Reg. No. 666347, registered on October 17, 1996, in classes 35, 41 and 42, and in force until October 17, 2026;

- International Trademark ADECCO, Reg. No. 901755, registered on August 18, 2006, in classes 9, 35, 36, 41 and 42, and in force until

August 17, 2026;

- Canadian Trademark ADECCO, Reg. No. TMA491482, registered on March 17, 1998, in classes 35, 41 and 42, and in force until March 17, 2028;

- Canadian Trademark ADECCO, Reg. No. TMA688583, registered on May 31, 2007, in classes 35, 41 and 42, and in force until May 31, 2032;

- US Trademark ADECCO, Reg. No. 2209526, registered on December 8, 1998, in classes 35, 41 and 42, and in force until December 8, 2028;

-US Trademark ADECCO, Reg. No. 5922639, registered on November 26, 2019, in class 35, and in force until November 26, 2025.

FACTUAL BACKGROUND

The Complainant is the result of the merger of two major companies operating in the field of job placement. In 1957, Adia SA was founded by Henri Lavanchy in Lausanne, Switzerland. A few years later, Philippe Foriel-Desteze founded Ecco in 1964 in Lyon, France. In the seventies, Adia expanded overseas and began a phase of acquisitions. The company tripled in size and started to operate in more than a dozen countries. In the eighties, Ecco becomes France's market leader as temporary staffing becomes one of the world's fastest growing industries. In parallel, Adia's sales top USD 1 billion as it became the European leader. In 1996, Adia and Ecco merged to form Adecco and at that time the company was placing around 250,000 people a day. In the 2000s, by acquiring Olsten Staffing based in New York, United States, the Complainant became America's largest recruitment company with revenues of EUR 11.6 billion. In 2010, after acquiring the MPS Group, the Complainant became the world leader in professional staffing. The Complainant's revenue was of EUR 23,640 million for the year 2022 and of EUR 20,949 million for the year 2021.

Adecco USA, Inc. was incorporated on October 17, 1997 – with a principal place of business at 10151 Deerwood Park Blvd., Bldg. 200, Suite 400, Jacksonville, FL 32256, the United States of America (hereinafter "the United States") – which is a subsidiary of the Complainant. Adecco USA, Inc. provides recruiting and workforce solutions. The Company offers permanent recruiting, temporary staffing, career advisory, and resource center services. The Complainant serves customers throughout the United States.

The Complainant also enjoys a strong online presence via its official websites and social media platforms. The Complainant owns many domain names containing the trademark ADECCO, including <adecco.com> (registered on May 15, 1993), <adecco.ch> (registered on May 17, 1996), <adeccogroup.com> (registered on June 21, 2002) and <adeccousa.com> (registered on October 2, 2003).

The Complainant uses these domain names to resolve to its official websites through which it informs Internet users and potential consumers about its ADECCO Trademark and its related products and services. The website associated with the domain name <adeccousa.com> is especially addressed to Internet users in the United States. Due to extensive use, advertising and revenue associated with its trademarks worldwide, the Complainant enjoys a high degree of renown around the world.

The disputed domain name <adeccogroupa.com> was registered on **May 20, 2022** and resolves to an inactive website.

PARTIES CONTENTIONS

Complainant Contentions:

- The Complainant asserts that it is the owner of the registered trademark ADECCO in numerous jurisdictions all over the world, including the United States; which in its vast majority predate the registration of the disputed domain name.
- The Complainant contends the disputed domain name incorporates in its second-level portion the Complainant's registered and widely known trademark ADECCO in its entirety and a misspelled form of the term "group" – the letter "a" had indeed been added at the end of the word; and that such addition of the descriptive misspelled term "groupa", referring to "group", would not prevent a finding of confusing similarity to the Complainant's trademark.
- The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, due to 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; that there is no evidence that the Respondent is known by the disputed domain name or owns any corresponding registered trademarks.
- The Complainant also contends that the Respondent has used a privacy shield service, masking its identity on the publicly available Registrar's Whois, appearing with it, that the Respondent is aiming at hiding its true identity rather than being known by the disputed domain name; that the revealed Registrant's name "John Finch" does not correspond to the disputed domain name <adeccogroupa.com> or the mentions "adeccogroupa" or "adecco groupa"; that furthermore, when searching on popular Internet search engines for the terms "adecco", alone or in combination with the word "group" or the misspelled term "groupa", the vast majority of the results directly relate to the Complainant, its website, its social medias accounts or related topics.

- The Complainant contends that the structure of the disputed domain name reveals that Respondent's initial intention in registering the disputed domain name was to refer to the Complainant, suggesting a false affiliation with the Complainant, its business activity, its group and with its trademark to the Internet User.
- The Complainant asserts that the disputed domain name has been passively held, and that there is no evidence showing that the Respondent has been using, or preparing to use, the disputed domain name in connection with a bona fide offering of goods and services or has made a legitimate noncommercial or fair use of the disputed domain name.
- The Complainant contends that the disputed domain name was registered in multiple jurisdictions many years after the registrations of ADECCO widely-known Trademark and that the Complainant enjoys a strong online presence, including in the United States; that by conducting a simple online search regarding the name "Adecco" alone or associated to the term "group" on popular search engines, the Respondent would have inevitably learnt about the Complainant, its Trademark and business.
- The Complainant contends that the disputed domain name was registered in bad faith due to, incorporates the Complainant's trademark ADECCO with the addition of the term "group" and the additional letter "a", which, clearly refer to the Complainant, its group and business, appearing with it that the Respondent registered the disputed domain name having the Complainant in mind, with a clear intention of creating confusion.
- The Complainant contends that disputed domain name is being used in bad faith, due to it has been passively held, adding several factual considerations of bad faith use under the passive holding doctrine; that as previous UDRP panels have held, under such doctrine that "the non-use of a domain would not prevent a finding of bad faith" (see "WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition", section 3.3; Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003).
- Finally, the Complainant contends that active MX records are associated with the disputed domain name, increasing the Respondent's fraudulent conduct and purposes by impersonating the Complainant.

Response

The Respondent did not reply to any of the Complainant's contentions.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is 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

In accordance with Paragraph 4(a) of the Policy, the onus is on the Complainant to prove:

- (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 will consider each of these requirements in turn.

Identical or Confusingly Similar

The Complainant has produced sufficient evidence of having Trademark Rights over the word ADECCO, since 1996.

The disputed domain name <adecogroupa.com> is the result of the exact incorporation of Complainant's Trademark ADECCO, plus the English descriptive word "group", which is intrinsically related to Complainant's trade name, and the addition of the vowel "a". Also, as the Complainant contends the term "groupa" could be understood as a "misspelled form of the term "group" – the letter "a" had indeed been added at the end of the word; and that such addition of the descriptive misspelled term "groupa", referring to "group", would not prevent a finding of confusing similarity to the Complainant's trademark." Under any analysis the Complainant's widely-known Trademark ADECCO is recognizable in the disputed domain name, and the intentional addition of the misspelled word "groupa", constitutes an act of typosquatting, that among endless risks, generates a false impression to the Internet User (see WIPO Overview 3.0 Section 1.9).

In relation to the gTLD ".com", it is well established that such element may typically be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark, as it is a technical requirement of registration (see Section 1.11.1; of the WIPO Overview 3.0; Adecco Group AG vs. Lawal Ibrahim, CAC-UDRP Case No. 104524).

Therefore, the disputed domain name <adecogroupa.com> is confusingly similar to Complainant's ADECCO Trademark.

Rights or Legitimate Interests

According to the submitted evidence, and considering the absence of any communication or Response by the Respondent, meaning of any relevant evidence, this Panel determines that the Complainant has established its prima facie case in relation to the Second UDRP Element, due to:

- the Respondent registered the disputed domain name on May 20, 2022, very well after the Complainant's acquired its Trademark Rights over ADECCO on 1996;
- the Respondent purposely selected a worldwide well-known trademark as ADECCO which has been registered in multiple jurisdictions, including in the United States, where the Respondent seems to be located, intentionally added a misspelled word, and with it, suggesting a false affiliation, confusing the users who seeks or expects to find the Complainant on the Internet;
- the Respondent is not associated or affiliated to the Complainant;
- the Complainant has not granted any rights to Respondent to use the ADECCO Trademark, whether a license to offer any product or service, or any rights to apply for registration of the disputed domain name by the Complainant;
- there is no evidence that the Respondent has become commonly known by the term "adecogroupa.com"; in contrary, and according to the evidence submitted by the Complainant, by conducting a simple online search regarding the word "Adecco" alone or associated to the term "group" on popular search engines, the Respondent could easily have noticed the Complainant's existence and valuable IP Assets, including of course, its ADECCO Trademark;
- there is no evidence showing that the Respondent has been using, or preparing to use, the disputed domain name in connection with a bona fide offering of goods and services or has made a legitimate noncommercial or fair use of the disputed domain name, in particular if the disputed domain name has been passively held.

Therefore, this Panel concludes, that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Registered and Used in Bad Faith

a) Registration in Bad Faith:

The Complainant acquired its Trademark Rights over the word ADECCO in 1996 (e.g.: Swiss Trademark ADECCO, Reg. No. P-431224, registered on September 26, 1996, in ICs 35, 41 and 42, and in force until May 9, 2026). According to the evidence submitted before this Panel, the Complainant is a worldwide company, with a well-known Trademark as ADECCO with intense commercial activity, including on the Internet (Adecco Group AG v. Klint Williams, CAC-UDRP Case No. 104774; Adecco Group AG v. Victor Uwalaka, CAC-UDRP Case No. 104670; Adecco Group AG v. Liquine Services, CAC-UDRP Case No. 104671; Adecco Group AG v. Jack Umbral, WIPO Case No. 2019-1124).

Section 3.2.1 of the WIPO Overview 3.0 related to additional bad faith consideration factors, has established that:

"Particular circumstances panels may take into account in assessing whether the respondent's registration of a domain name is in bad faith include: (i) the nature of the domain name (e.g., a typo of a widely-known mark, or a domain name incorporating the complainant's mark plus an additional term such as a descriptive or geographic term, or one that

corresponds to the complainant's area of activity or natural zone of expansion), (ii) the chosen top-level domain (e.g., particularly where corresponding to the complainant's area of business activity or natural zone of expansion) (...) (vi) a clear absence of rights or legitimate interests coupled with no credible explanation for the respondent's choice of the domain name, or (viii) other indicia generally suggesting that the respondent had somehow targeted the complainant." (emphasis added).

Section 3.2.2 of the WIPO Overview 3.0 related to the assessment of respondent's knowledge ("Knew or should have known"), has established that:

"Noting the near instantaneous and global reach of the Internet and search engines, and particularly in circumstances where the complainant's mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known, that its registration would be identical or confusingly similar to a complainant's mark. Further factors including the nature of the domain name, the chosen top-level domain, any use of the domain name, or any respondent pattern, may obviate a respondent's claim not to have been aware of the complainant's mark. (...)" (emphasis added).

Given that, the Complainant's submitted evidence, and in particular, since the revealed Respondent (Registrant's Organization) has been identified as "John Finch Adecco Group", to this Panel, there is no trace of doubt that the Respondent was fully aware about Complainant's reputation and ADECCO Trademark's value (and even added a misspelled word), showing that the Respondent registered the disputed domain name with Complainant's in mind.

Therefore, this Panel concludes that the disputed domain name was registered in bad faith.

b) Bad Faith Use:

In the present dispute, the disputed domain name has remained inactive. In relation to the Passive Holding Doctrine, among multiple UDRP Panel's Decisions, and in particular, Section 3.3 of the WIPO Overview 3.0 which states that:

"From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding.

While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include:

- (i) the degree of distinctiveness or reputation of the complainant's mark;
- (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use;
- (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement); and
- (iv) the implausibility of any good faith use to which the domain name may be put."

In the present dispute, the Complainant has proved that:

- (i) ADECCO is a widely-known Trademark, which enjoys distinctiveness and a relevant reputation;
- (ii) the Respondent failed to submit any communication and/or a Response, including to the Cease-and-Desist Letter sent on June 30, 2022 by the Complainant;
- (iii) the Respondent made use of a privacy service, which under the present circumstances, this Panel perceives it as an a clear attempt of avoiding any notification concerning a domain name's dispute;
- (iv) the disputed domain name has been passively held, resulting in an inactive website, with active Mail Exchange records ("MX records") allowing the Respondent to potentially use the disputed domain name for email, and with it, "raising the specter" of the Respondent's trademark abuse (see *Comericaila Inc. v. Horoshiy, Inc.*, WIPO Case No. D2004-0615; *PrideStaff, Inc. v. Perfect Privacy, LLC / Marcheta Bowlin, Midwest Merchant Services*, WIPO Case No. D2021-3165).

Therefore, this Panel concludes that, the disputed domain name is being used in faith as well.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **adeccogroupa.com**: Transferred

PANELLISTS

Name **María Alejandra López García**

DATE OF PANEL DECISION **2023-05-08**

Publish the Decision
