

## Decision for dispute CAC-UDRP-105312

Case number CAC-UDRP-105312

Time of filing 2023-03-27 09:55:38

Domain names adecco-payroll.com

### Case administrator

Name Olga Dvořáková (Case admin)

### Complainant

Organization Adecco Group AG

### Complainant representative

Organization BRANDIT GmbH

### Respondent

Name Rohit Kundra

#### 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 states, and provides relevant evidence, that it is the owner of “numerous trademarks... registered in numerous jurisdictions” for the mark ADECCO, including Swiss Reg. No. 2P-431224 (registered September 26, 1996); EU Reg. No. 3,330,149 (registered January 19, 2005); and U.S. Reg. No. 2,209,526 (registered December 8, 1998) (the “ADECCO Trademark”).

#### FACTUAL BACKGROUND

Complainant states that it 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”; that it “has 38,000 employees in more than 60 countries and territories”; and that it “places around 600,000 associates into roles daily.”

The Disputed Domain Name was created on April 21, 2022, and is being used in connection with a pay-per-click (“PPC”) website that contains links labelled “Randstad Staffing,” “Adecco Recruitment” and “Paycheck Payroll.” Complainant also states, and provides evidence to support, that “active MX records are associated with the disputed domain name,” which means “[i]t is likely that corresponding fraudulent email addresses are used”; and that Complainant sent a demand letter to Respondent dated June 9, 2022, to which Respondent has never replied.

Complainant contends, in relevant part, as follows:

Paragraph 4(a)(i): Complainant states that the Disputed Domain Name is confusingly similar to the ADECCO Trademark because the Disputed Domain Name includes the ADECCO Trademark “in its entirety” plus “the descriptive term ‘payroll’” [which] would not prevent as well a finding of confusing similarity.”

Paragraph 4(a)(ii): Complainant states that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, inter alia, “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”; “[t]here is no evidence that the Respondent is known by the disputed domain name[] or owns any corresponding registered trademarks”; and “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, its trademark and business activity.”

Paragraph 4(a)(iii): Complainant states that the Disputed Domain Name was registered and is being used in bad faith because, inter alia, “Respondent registered the disputed domain name many years after the registrations of the Complainant’s ADECCO trademarks” and “[t]he ADECCO trademark is a widely known trademark registered in many countries”; “the inclusion of the Complainant’s ADECCO trademark with the term ‘payroll’ in the disputed domain name reflects the Respondent’s clear intention to create an association, and a subsequent likelihood of confusion, with the Complainant’s trademark in Internet users’ mind”; Respondent’s use of a PPC page in connection with the Disputed Domain Name “aims at attracting Internet users for commercial gain by creating a likelihood of confusion with the Complainant’s ADECCO trademark”; Respondent’s failure to reply to Complainant’s demand letter “may infer bad faith”; and “MX records are associated with the disputed domain name,” which means that “[i]t is likely that corresponding fraudulent email addresses are used” because “Internet users receiving emails from email address associated with the disputed domain name (such as ‘[...]@adecco-payroll.com’) are led to believe that they are personally contacted by the Adecco group.”

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#### PARTIES CONTENTIONS

No administratively compliant response has been filed.

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#### 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).

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#### 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).

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#### 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).

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#### 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.

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Identical or Confusingly Similar: Paragraph 4(a)(i):

Based upon the trademark registration cited by Complainant, it is apparent that Complainant has rights in and to the ADECCO Trademark.

As to whether the Disputed Domain Name is identical or confusingly similar to the ADECCO Trademark, the relevant comparison to be made is with the second-level portion of the Disputed Domain Name only (i.e., "adecco-payroll") because "[t]he 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." WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.11.1.

Here, the Disputed Domain Name contains the ADECCO Trademark in its entirety, plus a hyphen and the descriptive word "payroll." As set forth in section 1.8 of WIPO Overview 3.0: "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element."

Accordingly, the Panel finds that Complainant has proven the first element of the Policy.

Rights or Legitimate Interests: Paragraph 4(a)(ii)

Complainant states that Respondent has no rights or legitimate interests in respect of the Disputed Domain Names because, inter alia, "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"; "[t]here is no evidence that the Respondent is known by the disputed domain name[] or owns any corresponding registered trademarks"; and "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, its trademark and business activity."

WIPO Overview 3.0, section 2.1, states: "While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of 'proving a negative', requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element."

The Panel finds that Complainant has established its prima facie case and without any evidence from Respondent to the contrary, the Panel is satisfied that Complainant has satisfied the second element of the UDRP.

Registered and Used in Bad Faith: Paragraph 4(a)(iii)

Whether a domain name is registered and used in bad faith for purposes of the UDRP may be determined by evaluating four (non-exhaustive) factors set forth in paragraph 4(b) of the UDRP: (i) circumstances indicating that the registrant has registered or the registrant has 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 complainant, for valuable consideration in excess of the registrant's documented out-of-pocket costs directly related to the domain name; or (ii) the registrant 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 registrant has engaged in a pattern of such conduct; or (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet users to the registrant's 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 registrant's website or location or of a product or service on the registrant's website or location.

Numerous panels under the UDRP have found the registration and use of a domain name that is confusingly similar to a complainant's trademark to constitute bad faith pursuant to paragraph 4(b)(iv) of the UDRP where, as here, the domain name is associated with a monetized parking page that could be construed as associated with the complainant. See, e.g., Wal-Mart Stores, Inc. v. Whois Privacy, Inc., WIPO Case No. D2005 0850; Columbia Pictures Industries, Inc. v. North West Enterprise, Inc., WIPO Case No. D2006-0951; and Dr. Martens International Trading GmbH, Dr. Maertens Marketing GmbH v. Private Whois Service, WIPO Case No. D2011-1753.

Accordingly, the Panel finds that Complainant has proven the third element of the Policy.

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FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

**Accepted**

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

1. **adecco-payroll.com**: Transferred

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## PANELLISTS

Name	<b>Douglas Isenberg</b>
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DATE OF PANEL DECISION **2023-05-09**

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Publish the Decision

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