

Decision for dispute CAC-UDRP-105308

Case number	CAC-UDRP-105308
Time of filing	2023-03-27 09:53:20
Domain names	adeccostaffingusa.com

Case administrator

Name	Olga Dvořáková (Case admin)
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Complainant

Organization	Adecco Group AG
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Complainant representative

Organization	BRANDIT GmbH
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Respondent

Name	Ted Galusha Adecco Staffing
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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 the registered owner of numerous trademarks for "ADECCO", inter alia United States trademark registration no. 2209526, registered on December 8, 1998, in classes 35, 41 and 42 (hereinafter referred to as the "Trademark").

FACTUAL BACKGROUND

The Complainant is a leading workforce solutions company, which brings job seekers and employers together to achieve maximum impact. The Complainant has 38,000 employees in more than 60 countries and territories, including the United States. The revenue of the Adecco Group was of EUR 23,640 million for the year 2022 and of EUR 20,949 million for the year 2021.

The disputed domain name was registered on August 9, 2022, and is not used in connection with an active website.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant argues that the disputed domain name is confusingly similar to their Trademark. They claim that the disputed domain name incorporates the entire Trademark and adds the generic terms "staffing" and "USA," which do not prevent confusion. Additionally, they state that the TLD ".com" does not prevent confusion either.

The Complainant also asserts that the Respondent has no rights or legitimate interest in the disputed domain name. They explain that they have not authorized or licensed the Respondent to use the domain name, and there is no affiliation between them. Furthermore, the Complainant states that the Respondent is not known by the domain name nor owns any corresponding registered trademarks. They argue that there is no evidence of the Respondent using or intending to use the domain name for a legitimate offering of goods or services, nor any legitimate noncommercial or fair use.

Regarding bad faith, the Complainant states that the disputed domain name was registered and is being used in bad faith. They claim that the Respondent registered the disputed domain name long after the Trademark, which is widely recognized. Moreover, they argue that the inclusion of two generic terms in the disputed domain name clearly refers to the Complainant, who has an established business presence in the United States through its subsidiary company Adecco USA, Inc., and offers staffing services.

In terms of bad faith use, the Complainant asserts that the Respondent has not demonstrated any activity related to the disputed domain name and argues that the non-use of the disputed domain does not prevent a finding of bad faith in the present case, citing the doctrine of passive holding. The Complainant supports this argument by stating that the structure of the domain name is designed to mislead Internet users into believing it is associated with the Complainant, its subsidiary in the United States, and its business activity. They further claim that there is no evidence of any actual or intended good-faith use of the domain name, that they sent a cease and desist letter to the Respondent regarding their rights to the Trademark, which received no response, and that the Respondent impermissibly used the name "Adecco Staffing" in the Whois record, incorporating the Complainant's Trademark. Lastly, they point out that active MX records are associated with the disputed domain name, suggesting the likelihood of a corresponding fraudulent email address being used.

RESPONDENT:

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

Under paragraph 4(a) of the Policy, the Complainant must prove that each of the following three elements is present:

- (i) the disputed domain name is identical or confusingly similar to the Complainant's trademark; and
- (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.

1. The Panel accepts that the disputed domain name is confusingly similar to the Trademark. It is well established that a domain name

that wholly incorporates a trademark may be confusingly similar to such a trademark for purposes of the Policy despite the addition of geographic or generic terms, such as "USA" or "staffing".

2. The Complainant has substantiated that the Respondent has no rights or legitimate interests in the disputed domain name. The Panel finds that the Complainant has fulfilled its obligations under paragraph 4(a)(ii) of the Policy. The Respondent did not deny these assertions in any way and, therefore, failed to prove any rights or legitimate interests in the disputed domain name. Based on the evidence on file, the Panel cannot find any rights or legitimate interests of the Respondent either, as the disputed domain name is not actively used. Accordingly, the Panel finds that the Complainant has proven that the Respondent has no rights or legitimate interests in respect of the disputed domain name under paragraphs 4(a)(ii) and 4(c) of the Policy.

3. The Panel is satisfied that the Respondent registered the disputed domain name with full knowledge of the Complainant and its well-established rights in the Trademark. This finding is supported by the fact that the Trademark is highly distinctive and that the disputed domain name includes generic terms clearly referring to the Complainant and its business.

Furthermore, the Panel accepts the Complainant's contentions that the disputed domain name has been used in bad faith under the principles of passive holding. It is the consensus view that the lack of active use of a domain name does not, as such, prevent a finding of bad faith under the Policy. In such cases, the panel must examine all the circumstances of the case to determine whether a respondent is acting in bad faith. Examples of circumstances that can indicate bad faith include a complainant having a well-known trademark, no response to the complaint, the respondent's concealment of identity, and the impossibility of conceiving a good faith use of the domain name (cf Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003; Jupiters Limited v. Aaron Hall, WIPO Case No. D2000-0574; Ladbroke Group Plc v. Sonoma International LDC, WIPO Case No. D2002-0131). The Panel is convinced that the Trademark is well-established. Furthermore, the Respondent failed to file a Response and, therefore, did not provide evidence of any actual or contemplated good-faith use of the disputed domain name. In the view of the Panel, the facts of this case do not allow for any plausible actual or contemplated active use of the disputed domain name by the Respondent in good faith. The Panel is therefore convinced that, even though the disputed domain name has not yet been actively used, the Respondent's non-use of the disputed domain name equals use in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **adeccostaffingusa.com**: Transferred

PANELLISTS

Name	Peter Müller
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DATE OF PANEL DECISION 2023-05-15

Publish the Decision