

Decision for dispute CAC-UDRP-105338

Case number CAC-UDRP-105338

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Domain names adeccopayroll.com

Case administrator

Name Olga Dvořáková (Case admin)

Complainant

Organization Adecco Group AG

Complainant representative

Organization BRANDIT GmbH

Respondent

Name Wu Yu

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 several trademarks for the name ADECCO, among which the following:

- the Swiss trademark ADECCO No. P-431224, registered on September 26, 1996, in classes 35, 41 and 42;
- the Swiss trademark ADECCO No. P-549358, registered on August 18, 2006, in classes 9, 35, 36, 41 and 42;
- the European Union trademark ADECCO No. 3330149, registered on January 19, 2005, in classes 35, 41 and 42;
- the International trademark ADECCO No. 666347, registered on October 17, 1996, in classes 35, 41 and 42;
- the International trademark ADECCO No. 901755, registered on August 18, 2006, in classes 9, 35, 36, 41 and 42;
- the United States trademark ADECCO No. 2209526, registered on December 8, 1998, in classes 35, 41 and 42;
- the China trademark ADECCO No. 8720131, registered on November 14, 2011, in class 35;
- the China trademark ADECCO No. 8720132, registered on November 14, 2011, in classes 36;

- the China trademark ADECCO No. 57911953, registered on February 21, 2022, in class 42;
- the China trademark ADECCO No. 57918308, registered on February 7, 2022, in class 35; and
- the China trademark ADECCO No. 57901745, registered on February 7, 2022, in class 41.

FACTUAL BACKGROUND

The Complainant is a global workforce solutions company, offering services for both, the job seekers and employers. With 8,000 employees in more than 60 countries and territories, including in China, the Complainant handles everything from general recruitment to specialist industry placements. Since 2010, the Complainant provides total human resources services including Professional Staffing Solutions, General Staffing Solutions, Global Employee Outsourcing, Payroll & HR Services across China.

No particular information is known about the Respondent, named Wu Yu, resident of China, who acquired the disputed domain name <adeccopayroll.com> on 30 June, 2022.

The disputed domain name is not currently used in connection with any goods or services and rather resolves to a parking webpage which includes sponsored, pay-per-click, advertisement.

PARTIES CONTENTIONS

COMPLAINANT:

Identical or confusingly similar

The Complainant argues that the disputed domain name <adeccopayroll.com> and the Complainant's registered trademarks are confusingly similar. Particularly, the Complainant contends that the disputed domain name <adeccopayroll.com> incorporates, in its second-level portion, the Complainant's registered and widely known trademark ADECCO in its entirety and the descriptive term "payroll". Moreover, according to the Complainant, the applicable top-level suffix ".com" must be disregarded under the similarity test as its function is merely technical and as such does not prevent the likelihood of confusion.

No rights or legitimate interests

The Complainant argues that there is no evidence at all that the Respondent is commonly known by the disputed domain name or a name corresponding to the disputed domain name, nor that the Respondent has ever offered any goods or services under the disputed domain name, nor has making any businesses with the Complainant. Moreover, the Complainant states that the Respondent has not been licensed or authorized in other way to use the Complainant's trademarks nor to apply for or use any domain name incorporating such trademarks.

Finally, according to the Complainant, the structure of the disputed domain names reveals that Respondent's initial intention in registering the disputed domain name was to refer to the Complainant, its trademark and business activity. The disputed domain name indeed incorporates the Complainant's trademark ADECCO with the addition of the term "payroll". Such association of terms within the disputed domain name directly refers to the Complainant and the "payrolling" services it provides.

Registered and used in bad faith

As far as bad faith registration and use is concerned, the Complainant states that the ADECCO trademark has strong online presence and is widely known and registered in many countries including in China, country where the Respondent is based. Consequently, according to the Complainant, the Respondent would have inevitably learnt about the Complainant, its trademark and business.

Furthermore, the Complainant contents that the way how the disputed domain name is being used is evidence of use in bad faith.

Besides, the Complainant points out that it indented to settle this dispute by sending a cease-and-desist letter to the Respondent before starting this administrative proceeding, which was left unanswered by the Respondent.

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

Paragraph 15 of the Rules states that the Panel decides a Complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law deemed applicable.

In the case of default by a Party, Rule 14 states that if a Party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under the Rules, the Panel draws such inferences therefrom as appropriate.

In the present case, the Respondent has not submitted any Response and consequently has not contested any of the contentions made by the Complainant.

The Panel proceeds therefore to decide only on the basis of the Complainant's factual statements and the documentary evidence provided in support of them.

I. The Panel finds that the disputed domain name <adeccopayroll.com> fully incorporates the key term of the Complainant's registered trademarks "ADECCO" only differs in addition of a descriptive element "PAYROLL" placed after the word ADECCO.

As far as the additional verbal element ".com" is concerned, the Panel shares the Complainant's argument in the sense that this particle has rather technical function and does not outweigh the overall similar impression <adeccopayroll.com> and "Adecco" leave.

Accordingly, the Panel considers that the disputed domain name and the Complainant's previously registered trademarks are confusingly similar and infers that paragraph 4(a)(i) of the Policy is satisfied.

II. According to the Complainant's contentions and evidence submitted within this proceeding, which were not disputed, the Respondent does not appear to be in any way related to the Complainant's business, does not act as the agent of the Complainant nor is currently known and has never been known as "ADECCO" or any combination of this name.

Furthermore, the disputed domain name <adeccopayroll.com> has not been associated with any Complainant's business activity and rather appears to be registered with the intention of attracting Internet users. Therefore, the Respondent does not appear to have a legitimate interest in the disputed domain name.

Consequently, and in the absence of a Response, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, so that the requirements of paragraph 4(a)(ii) of the Policy are met.

III. As to the bad faith, the Complainant argues that Respondent registered the disputed domain name <adeccopayroll.com> with actual knowledge of Complainant's trademark ADECCO and points out particularly to the following:

- The Respondent is located in China, where the Complainant's business activities take place and where the Complainant's trademark has been used;
- When searching in Google the word "ADECCO", only results related to the Complainant appear; and
- Besides the Complainant's trademark ADECCO, the disputed domain name incorporates the term "payroll" which refers to one of the Complainant's services.

The Panel finds that the actual knowledge of a Complainant's rights in a trademark can be considered proven through a totality of circumstances described above and surrounding the registration of the disputed domain name <adeccopayroll.com>.

Secondly, the Complainant points out that Respondent uses the disputed domain name <adeccopayroll.com> for its commercial gain, by:

- creating a likelihood of confusion with the Complainant's trademark ADECCO and the type of services offered by the Complainant; and
- attracting Internet user to a Respondent's webpage on which no products or services are offered but which serves only as a parking page with sponsored, pay-per-click, advertisement.

Based on all the circumstances described by the Complainant and supported by relevant documents, the Panels concludes that in the absence of sufficient evidence to the contrary and rebuttal from Respondent, by intending to exploit, for commercial gain, Internet users destined for Complainant, the Respondent's activity is indicative of use of the disputed domain name <adeccopayroll.com> in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **adeccopayroll.com**: Transferred

PANELLISTS

Name	Hana Císlerová
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DATE OF PANEL DECISION 2023-05-16

Publish the Decision
