

ADMINISTRATIVE PANEL DECISION

Serco Group Plc. v. 杨智超 (Zhichao Yang)
Case No. D2022-0952

1. The Parties

Complainant is Serco Group Plc., United Kingdom, represented by SafeNames Ltd., United Kingdom.

Respondent is 杨智超 (Zhichao Yang), China.

2. The Domain Names and Registrar

The disputed domain names <serco-career.com> and <sercopayslip.com> (the “Domain Names”) are registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on March 17, 2022. On March 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On March 21, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on March 21, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint in English on March 23, 2022.

On March 21, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On March 23, 2022, Complainant submitted a request that English be the language of the proceeding. Respondent did not comment on the language of the proceeding.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent in English and Chinese of the Complaint, and the proceedings commenced on March 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 17, 2022. Respondent did not submit any

response. Accordingly, the Center notified Respondent's default on April 18, 2022.

The Center appointed Kimberley Chen Nobles as the sole panelist in this matter on April 27, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

Complainant, Serco Group Plc, provides services mainly in the areas of transport, justice and immigration, health, defence, and citizen services. Initially founded in 1929 under the name RCA Services Limited, a United Kingdom (UK) division of Radio Corporation of America, the company became "Serco" in 1987. Complainant was listed on the London Stock Exchange in 1988, expanding to become a multinational company. Currently, Complainant is a Financial Times Stock Exchange ("FTSE") 350 company managing over 500 contracts worldwide, and employing over 50,000 people. In 2020, Complainant generated a total revenue of GBP 3.9 billion.

Complainant owns registered trademarks in several jurisdictions with the SERCO mark, including:

- European Union Trade Mark number 000201798 for SERCO word mark, registered on August 19, 1999;
- United States of America trademark number 2932258 for SERCO design mark, registered on March 15, 2005;
- Canadian trademark number TMA675423 for SERCO word mark, registered on October 23, 2006;
- Australian trademark number 892338 for SERCO word mark, registered on October 14, 2002;
- Singapore trademark number T0118737J for SERCO word and design mark, registered on January 15, 2003; and
- Australian trademark number 588452 for SERCO word and design mark, registered on September 20, 1995.

Complainant also owns and has operated their official website located at "www.serco.com" since 1994, and has a social media presence that utilizes the SERCO mark to promote its services, including the following social media platforms:

- LinkedIn: <https://www.linkedin.com/company/serco>
- YouTube: <https://www.youtube.com/user/sercovieo>
- Twitter: <https://twitter.com/SercoGroup>

The Domain Names were both registered on November 10, 2021, with the same Registrar, as noted above. Each of the Domain Names resolves a parked website with Pay-Per-Click ("PPC") links to third party websites.

5. Parties' Contentions

A. Complainant

Complainant contends that (i) the Domain Names are identical or confusingly similar to Complainant's trademarks; (ii) Respondent has no rights or legitimate interests in the Domain Names; and (iii) Respondent registered and is using the Domain Names in bad faith.

In particular, Complainant contends that it has trademark rights in the registrations for SERCO and owns a domain name incorporating the SERCO trademarks. Complainant contends that Respondent registered and is using the Domain Names to confuse Internet users looking for *bona fide* and well-known SERCO products and services.

Complainant notes that it has no affiliation with Respondent, nor authorized Respondent to register or use the Domain Names, which include Complainant's trademarks, and that Respondent has no rights or legitimate interests in the Domain Names. Rather, Complainant contends that Respondent has acted in bad faith in registering the Domain Names and setting up the corresponding websites, when Respondent clearly knew of Complainant's rights.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

6.1. Preliminary Procedural Issue – Language of the Proceeding

The Rules, in paragraph 11(a), provide that unless otherwise agreed by the parties or specified otherwise in the registration agreement between the respondent and the registrar in relation to the disputed domain name, the language of the proceeding shall be the language of the registration agreement, subject to the authority of the panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

Complainant submitted its Complaint in English. On March 23, 2022, Complainant requested that the language of the proceeding should be English. According to the information received from the Registrar, the language of the Registration Agreements for the Domain Names is Chinese.

Complainant contends that the Domain Names include Complainant's trademark in their entirety with the addition of English terms "career" and "payslip", and that the content advertised on both websites of the Domain Names are in English, indicating that Respondent understand English. Complainant also contends that it would be unfairly burdensome for Complainant to translate the Complaint and conduct the proceeding in Chinese and would also cause unnecessary delay in the proceeding.

In exercising its discretion to use a language other than that of the Registration Agreements for the Domain Names, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both Parties, taking into account all relevant circumstances of the case, including matters such as the Parties' ability to understand and use the proposed language, time, and costs.

The Panel accepts Complainant's submissions regarding the language of the proceeding. The Panel notes that the Center notified the Parties in Chinese and English of the language of the proceeding as well as notified Respondent in Chinese and English of the Complaint. Respondent chose not to comment on the language of the proceeding nor did Respondent choose to file a Response.

The Panel also notes that each of the Domain Names resolves to an English language website providing sponsored links in English, and that Respondent is targeting websites and businesses in Complainant's language of operation, which is English.

The Panel is also mindful of the need to ensure that the proceeding is conducted in a timely and cost-effective manner. Complainant would be unduly disadvantaged by having to translate the Complaint into Chinese and to conduct the proceeding in Chinese.

Having considered all the circumstances of this case, the Panel determines that English be the language of the proceeding.

6.2. Substantive Issues

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

(i) the Domain Names are identical or confusingly similar to a trademark or service mark in which Complainant has rights; and

(ii) Respondent has no rights or legitimate interests in respect of the Domain Names; and

(iii) the Domain Names were registered and are being used in bad faith.

Section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") states that failure to respond to the complainant's contentions would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true.

Thus, although in this case Respondent has failed to respond to the Complaint, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence.

A. Identical or Confusingly Similar

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See [WIPO Overview 3.0](#), section 1.2.1. Complainant provided evidence of its rights in the SERCO trademarks, as noted above. Complainant has also submitted evidence, which supports that the SERCO trademarks are widely known and a distinctive identifier of Complainant's products and services. Complainant has therefore proven that it has the requisite rights in the SERCO trademarks.

With Complainant's rights in the SERCO trademark established, the remaining question under the first element of the Policy is whether each of the Domain Names, typically disregarding the Top-Level Domain ("TLD") in which it is registered (in this case, ".com"), is identical or confusingly similar to Complainant's trademark. See, e.g., *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#).

Here, the Domain Names are confusingly similar to Complainant's SERCO trademarks. These trademarks, which are fanciful and inherently distinctive, are recognizable in the Domain Names.

In particular, each of the Domain Names includes Complainant's trademark SERCO in its entirety with the inclusion of the terms "-career" and "payslip" in the respective Domain Names <serco-career.com> and <sercopayslip.com>. Such addition of the terms to Complainant's trademark in the Domain Names as noted, does not prevent a finding of confusing similarity between the Domain Names <serco-career.com> and <sercopayslip.com> and the SERCO trademark. See [WIPO Overview 3.0](#), section 1.8.

Thus, the Panel finds that Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make a *prima facie* showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with relevant evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

From the record in this case, it is evident that Respondent was, and is, aware of Complainant and the SERCO trademarks, and does not have any rights or legitimate interests in the Domain Names.

Complainant has confirmed that Respondent is not affiliated with Complainant, or otherwise authorized or licensed to use the SERCO trademark or to seek registration of any domain name incorporating the SERCO trademark. Respondent is also not known to be associated with or commonly known by the SERCO trademark.

In addition, Respondent has not used the Domain Names in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. Rather, the evidence demonstrates that each of the Domain Names resolves to a PPC website displaying third party advertisement links.

The [WIPO Overview 3.0](#), section 2.9 notes that: “Applying UDRP paragraph 4(c), panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users.” Furthermore, an abundance of other UDRP panels have recognized that no rights or legitimate interests derive from using another’s trademark to divert Internet users to websites displaying sponsored links, see, e.g., *Virgin Enterprises Limited v. LINYANXIAO aka lin yanxiao*, WIPO Case No. [D2016-2302](#), in which the panel held: “The consensus view of previous UDRP panels is that use of a domain name to post parking and landing pages or pay-per-click links may be permissible in some circumstances, but would not of itself confer rights or legitimate interests arising from a ‘*bona fide* offering of goods or services’ or from ‘legitimate noncommercial or fair use’ of the domain name.”

Thus, such use by Respondent does not constitute a *bona fide* offering of goods or services or a legitimate noncommercial or fair use, and cannot under the circumstances confer on Respondent any rights or legitimate interests in the Domain Names. Moreover, there is no evidence showing that Respondent has been commonly known by the Domain Names.

Accordingly, Complainant has established its *prima facie* case that Respondent lacks any rights or legitimate interests in the Domain Names. Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the Domain Names. Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the Domain Names and Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Respondent’s actions indicate that Respondent registered and is using the Domain Names in bad faith.

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, namely:

“(i) circumstances indicating that you have registered or you have 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 your documented out-of-pocket costs directly related to the domain name; or

(ii) you have 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 you have engaged in a pattern of such conduct; or

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

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location or of a product or service on your website or location.”

The Panel finds that Complainant provided ample evidence to show that registration and use of the SERCO trademarks predate the registration of the Domain Names. Complainant's reputation is also well established and known. Indeed, the record shows that Complainant's SERCO trademarks and related services are widely known and recognized. Therefore, and also noting the composition of the Domain Names are confusingly similar to Complainant's domain name <serco.com>, Respondent was likely aware of the SERCO trademark when it registered the Domain Names, or knew or should have known that the Domain Names were confusingly similar to Complainant's trademark. See [WIPO Overview 3.0](#), section 3.2.2; see also *TTT Moneycorp Limited v. Privacy Gods / Privacy Gods Limited*, WIPO Case No. [D2016-1973](#).

The Panel therefore finds that Respondent's awareness of Complainant's trademark rights at the time of registration suggests bad faith. See *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#); *Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite*, WIPO Case No. [D2001-1070](#); *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#).

Further, the registration of the Domain Names incorporating Complainant's SERCO trademark suggests Respondent's actual knowledge of Complainant's rights in the SERCO trademark at the time of registration of the Domain Names and its effort to opportunistically capitalize on the reputation of Complainant's trademark.

In addition, as noted in Section 6.2.B above, Respondent has not used the Domain Names in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. The Panel finds that the use of the Domain Names indicates the obvious purpose of generating click-through revenues from the PPC links displayed at the websites to which each of the Domain Names resolves. In particular, the Domain Names each resolve to a parked website featuring various links including, in the case of the Domain Name <serco-career.com>: “Job Postings”, “Applicant Tracking System”, and “Employee Onboarding System” and in the case of the Domain Name <sercopayslip.com>: “Payment Processing”, “Mdeical Billing Services”, and “Online Payroll Services”. This is a clear indication that Respondent intentionally attempted to attract, for commercial gain, Internet users to its own websites by creating a likelihood of confusion with Complainant's SERCO trademark as to the source, sponsorship, affiliation, or endorsement of these websites.

Lastly, in the present circumstances, including the distinctiveness and reputation of the SERCO trademark, the failure of Respondent to submit a Response or to provide any evidence of actual or contemplated good faith use of the Domain Names, and the implausibility of any good faith use to which the Domain Names may be put, support a finding of bad faith. Accordingly, the Panel finds that Respondent has registered and is using the Domain Names in bad faith and Complainant succeeds under the third element of paragraph 4(a) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Names, <serco-career.com> and <sercopayslip.com>, be transferred to Complainant.

/Kimberley Chen Nobles/

Kimberley Chen Nobles

Sole Panelist

Date: May 11, 2022