

## **ADMINISTRATIVE PANEL DECISION**

ZipRecruiter, Inc. v. Gregory Farr

Case No. D2023-0600

### **1. The Parties**

The Complainant is ZipRecruiter, Inc., United States of America (“United States”), represented by Safenames Ltd., United Kingdom.

The Respondent is Gregory Farr, United States.

### **2. The Domain Name and Registrar**

The disputed domain name <ziprecruiter.pro> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 9, 2023. On February 9, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 9, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 20, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on February 20, 2023.

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 the Respondent of the Complaint, and the proceedings commenced on February 22, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 15, 2023.

The Center appointed Angela Fox as the sole panelist in this matter on March 21, 2023. 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**

The Complainant is an online recruitment company based in the United States which provides services for both individuals and commercial entities. The Complainant was established in 2010 and, according to the Complaint, has since then provided its recruitment services to more than one million employers and 120 million job seekers.

The Complainant carries out its business under the name and trademark ZIPRECRUITER, for which it owns *inter alia* the following trademark registrations in the United States, European Union, United Kingdom, and Canada, details of which were annexed to the Complaint:

- United States Federal Trademark Registration No. 3934310 registered on March 22, 2011, in Class 42;
- European Union Trade Mark Registration No. 015070873 registered on June 13, 2016, in Classes 9, 36, 41, and 42;
- United Kingdom Trademark Registration Nos. UK00915070873 (registered on June 13, 2016), UK00915070881 (registered on June 13, 2016), and UK00915644041 (registered on November 4, 2016) in Classes 9, 36, 41, and 42; and
- Canadian Trademark Registration No. TMA979480 registered on August 28, 2017, in Classes 9, 41, and 42.

The Complainant carries out its business through an online platform, which allows employers to post jobs and manage applications, and enables job seekers to search for and receive alerts regarding the latest job posts. The Complainant primarily operates from its website at “www.ziprecruiter.com”, but also uses its ZIPRECRUITER mark in connection with country code Top-Level Domains (“ccTLDs”) such as <ziprecruiter.co.uk>, <ziprecruiter.co.nz>, <ziprecruiter.fr>, and <ziprecruiter.us>.

The Complainant’s ZIPRECRUITER business has enjoyed commercial success and was ranked 350<sup>th</sup> in Deloitte’s 2019 Technology Fast 500. It was also named on Fast Company’s 2019 list of “The World’s Most Innovative Companies” within the “Enterprise” sector.

The disputed domain name was registered on August 18, 2022. Currently it does not link to any website. However, it was previously used to offer recruitment services, and annexed to the Complaint was a screenshot from the Respondent’s website dated August 23, 2022, which shows a page on which the website is described as being that of “ZipRecruiter”, using the Complainant’s own logo, and states that it is “Rated #1 Job Site in the U.S.” The screenshot shows that the website linked to the disputed domain name was inviting visitors to answer a series of questions about their recruitment interests so that recruitment services could be provided (“I’m looking for a job right now”, “I’m looking for a job, but no rush”, and “I’m just browsing”).

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant asserts that the disputed domain name is confusingly similar to its registered trademark ZIPRECRUITER. The disputed domain name differs from the Complainant’s trademark only in the non-distinctive domain name suffix “.pro” and the substitution of the letter “l” for “i” in the word “recruiter”. The Complainant submits that this is an example of “typosquatting”, designed to confuse the Internet user, who is

likely to mistakenly read the disputed domain name as corresponding to the Complainant's trademark.

The Complainant further asserts that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has not authorized, licensed or otherwise permitted the Respondent to use the disputed domain name, and has no business or legal relationship with the Respondent. Although the disputed domain name does not currently resolve to any active website, it was previously in use to offer recruitment services using the Complainant's own logo and copyright pictures and content from the Complainant's own website. The Complainant submits that such use cannot be regarded as a *bona fide* offering of goods or services, since the Respondent was attempting to pass itself off as the Complainant for commercial gain. Against this backdrop, and taking into account also the Respondent's current passive holding of the disputed domain name, the Complainant also submits that the Respondent has not been making a legitimate noncommercial or fair use of the disputed domain name.

Finally, the Complainant asserts that the disputed domain name was registered and has been used in bad faith. The Complainant's ZIPRECRUITER trademark and business was established at least 11 years before the disputed domain name was registered, and was known within the recruitment sector in the United States, where the Respondent is also based. Moreover, the Respondent's use of the Complainant's logo and copyright texts and images on a website linked to the disputed domain name proves actual knowledge by the Respondent of the Complainant's business. The Complainant submits that the Respondent's past use of the disputed domain name to masquerade as the Complainant and to offer the same services as the Complainant indicates that the Respondent registered the disputed domain name primarily for the purpose of disrupting the business of a competitor. Finally, the Complainant submits that in registering and using the disputed domain name in order to offer recruitment services, the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's ZIPRECRUITER mark. The Complainant submits that the Respondent's current passive holding of the disputed domain name should be regarded as bad faith "passive use" taking account of the use that the Respondent has in the past made, and the lack of evidence of any actual or contemplated good faith use.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions and is in default. No exceptional circumstances explaining the default have been put forward. Therefore, in accordance with paragraphs 14 (a) and (b) of the Rules, the Panel will decide the Complaint and shall draw such inferences as it considers appropriate from the Respondent's default.

## **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the panel finds that:

- (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 the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

All three elements must be present before a complainant can succeed in an administrative proceeding under the Policy.

### **A. Identical or Confusingly Similar**

The Complainant has proved that it owns registered trademark rights in ZIPRECRUITER.

The disputed domain name differs from the Complainant's trademark only in the substitution of the letter "l" for "i" in the word "recruiter". This is visually hardly noticeable, and indeed a lower case letter "l" is identical to a capital letter "I". The brain and eye on seeing the disputed domain name are likely to read it as "ziprecruiter.pro" rather than "ziprecruter.pro", given the visual similarities, and taking account of the fact that "recruiter" is a known English word, while "recruter" is not.

The generic Top-Level Domain ("gTLD") ".pro" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

The Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

## **B. Rights or Legitimate Interests**

The Complainant has not authorized the Respondent to use its ZIPRECRUITER trademark and there is no evidence that the Respondent has ever been commonly known by the disputed domain name nor that it has acquired any trademark rights in it.

Notably, despite the Respondent's current passive holding of the disputed domain name, the Complainant has shown evidence that the Respondent was previously using the disputed domain name to offer recruitment services on a website that depicted the Complainant's own logo, the ZIPRECRUITER trademark and copyright pictures and content from the Complainant's own website. All of this indicates that in using the disputed domain name, the Respondent knew of, and was intending to impersonate, the Complainant, and to mislead Internet users into thinking that they were dealing with the Complainant when in fact they were not.

The Panel agrees with the Complainant that such use is not a *bona fide* offering of goods or services.

There is nothing on the facts of this case to suggest that the Respondent could invoke any of the circumstances listed in paragraph 4(c) of the Policy in order to demonstrate a right or legitimate interest in the disputed domain name.

Numerous panels have found under the UDRP that "once the Complainant makes a *prima facie* showing that the registrant does not have rights or legitimate interests in the domain name, the evidentiary burden shifts to the registrant to rebut the showing by providing evidence of its rights or interests in the domain name" (see, for example, *The Vanguard Group, Inc. v. Lorna Kang*, WIPO Case No. [D2002-1064](#)). In this case, the Respondent has made no effort to refute the Complainant's allegation that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

## **C. Registered and Used in Bad Faith**

The Panel also agrees that the disputed domain name was registered and has been used in bad faith.

The disputed domain name was registered long after the Complainant had acquired rights in and established its recruitment business under the ZIPRECRUITER mark. The fact that the Respondent has in the past used the disputed domain name for a website including the Complainant's trademark, logo and copyright content, and offering identical services to those of the Complainant, creates a strong presumption that the Respondent intentionally registered and used a domain name which was confusingly similar to the Complainant's trademark in and because of its knowledge of the Complainant and its business.

Under paragraph 4(b)(iv) of the Policy, the Panel may find both registration and use in bad faith where there is evidence that by using the domain name, a respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with a complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's

website or location or of a product or service on it. The Respondent's past use of the disputed domain name to falsely hold itself out as the Complainant and to lure in Internet users looking for the Complainant's services, in order to offer them competing services for apparent commercial gain, falls squarely within this category.

The Respondent is not authorised to use the Complainant's trademark and has provided no explanation for this conduct. The Panel finds that the Complainant has made out a case for bad faith registration and use under paragraph 4(b)(iv) of the Policy.

In addition, the same facts point to paragraph 4(b)(iii) of the Policy, under which a Panel may find both registration and use of a domain name in bad faith if the circumstances indicate that the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor. In this case, since the Respondent was purportedly offering recruitment services it may be regarded as a competitor of the Complainant within the meaning of paragraph 4(b)(iii). The Complainant carries out its business on various different ccTLDs and the Respondent's operation of a website impersonating the Complainant under the gTLD ".pro" will clearly have been disruptive to the Complainant. The facts suggest that the Respondent registered the disputed domain name for this purpose, and the Respondent has done nothing to refute the Complainant's allegations in this Complaint.

The Panel finds that the disputed domain name was registered and has been used in bad faith.

## **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 disputed domain name, <ziprecrultor.pro>, be transferred to the Complainant.

*/Angela Fox/*

**Angela Fox**

Sole Panelist

Date: April 4, 2023