

ADMINISTRATIVE PANEL DECISION

Accolade Wines Australia Limited v. Name Redacted
Case No. D2023-1215

1. The Parties

Complainant is Accolade Wines Australia Limited, Australia, represented by Demys Limited, United Kingdom.

Respondent is Name Redacted.¹

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 20, 2023. On March 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 20, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complainant on March 22, 2023, 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 on March 24, 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”).

¹ Respondent appears to have used the name and contact information of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted Respondent’s name from this Decision. However, the Panel has attached as Annex 1 to this Decision an instruction to the Registrar regarding transfer of the disputed domain name which includes Respondent’s name. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this Decision shall not be published due to the exceptional circumstances of this case. See *ASOS plc. v. Name Redacted*, WIPO Case No. [D2017-1520](#); *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on March 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 17, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on April 19, 2023.

The Center appointed Stephanie G. Hartung as the sole panelist in this matter on April 24, 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

Complainant is a company organized under the laws of Australia which belongs to the leading wine producers, with over 50 wine brands and over 1,700 employees worldwide, including significant operations in Australia, the United Kingdom, mainland Europe including France, South Africa, New Zealand, and Asia.

Complainant has provided evidence that it is the registered owner of numerous trademarks relating to its company name and brand ACCOLADE WINES, including, but not limited, to the following:

- Word mark ACCOLADE WINES, European Union Intellectual Property Office (EUIPO), registration number: 009697079, registration date: July 14, 2011, status: active.

Moreover, Complainant has demonstrated to own the domain name <accoladewines.com>, which resolves to Complainant's main website at "www.accoladewines.com", used to promote Complainant's wines and related products and services worldwide.

Respondent, according to the disclosed Whois information for the disputed domain name, is a resident of Italy who registered the disputed domain name on February 16, 2023. By the time of rendering this decision, the disputed domain name resolves to a typical default site with no relevant further content. Complainant, however, has evidenced, that at some point before the filing of the Complaint the disputed domain name resolved to a website at "www.accoladewines.com", used to operate a standardized Pay-Per-Click (PPC) website displaying links to active third-party websites related to Complainant's wines business and activities. Also, Complainant has demonstrated that Respondent used the disputed domain name in February and March 2023 in connection with an email phishing attack, thereby displaying Complainant's official ACCOLADE WINES logo and misleading some of Complainant's business partners into thinking that the phishing email was sent by Complainant's tender manager for Europe, the Middle East and Africa ("EMEA") markets, in order to induce Complainant's business partners into making wired payments to a new bank account, presumably controlled by Respondent.

Complainant requests that the disputed domain name be transferred to Complainant.

5. Parties' Contentions

A. Complainant

Complainant contends to have roots going back to the year 1853 and that its ACCOLADE WINES trademark is meanwhile well-known throughout the industry, as well as among wine and spirits wholesalers and the general public.

Complainant submits that the disputed domain name is confusingly similar to its ACCOLADE trademark as it differs from the latter only by the addition of the extra letter "c", constituting a typographical variant of Complainant's trademark as part of a common tactic employed by domain name squatters. Moreover, Complainant asserts that Respondent has no rights or legitimate interests in respect of the disputed domain

name since (1) Respondent is not a licensee of Complainant and has not received any permission or consent from Complainant to use its ACCOLADE WINES trademark, (2) Complainant has found no evidence that Respondent is commonly known as “Accolade Wines” or “Accolade Wines” or that Respondent owns any trademark rights relating to these terms, (3) Respondent is using the disputed domain name in connection with criminal activity, including phishing, and (4) PPC advertising links that can be reached under the disputed domain name capitalize on the value and recognition of Complainant’s ACCOLADE WINES company name and trademark. Finally, Complainant argues that Respondent has registered and is using the disputed domain name in bad faith since (1) the disputed domain name constitutes a typo-squatting of Complainant’s ACCOLADE WINES trademark and any use of the disputed domain name for email services would be inherently confusing, (2) Respondent has been attempting to deceive Complainant’s suppliers through a phishing attack which is abusive to or takes unfair advantage of Complainant’s ACCOLADE WINES trademark rights, and (3) the disputed domain name resolves to PPC advertising webpages containing third-party commercial advertising links.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, Complainant carries the burden of proving:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) that Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

Respondent’s default in the case at hand does not automatically result in a decision in favor of Complainant, however, paragraph 5(f) of the Rules provides that if Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint. Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from Respondent’s failure to submit a Response as it considers appropriate.

A. Identical or Confusingly Similar

The Panel concludes that the disputed domain name <accoladewines.com> is confusingly similar to the ACCOLADE WINES trademark in which Complainant has rights.

The disputed domain name incorporates the ACCOLADE WINES trademark in its entirety, the only difference being a misspelling caused by adding a third letter “c”. Numerous UDRP panels have recognized that where a domain name incorporates a trademark in its entirety, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that trademark (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7). Moreover, the fact that the disputed domain name obviously includes an intentional misspelling of Complainant’s ACCOLADE WINES trademark is not at all inconsistent with such finding of confusing similarity. Typo-squatted domain names are, on the contrary, intended to be confusing so that Internet users, who unwittingly make common type errors, will enter the typo-squatted domain name instead of the correct spelled trademark (see *e.g.*, *National Association of Professional Baseball Leagues, Inc, d/b/a Minor League Baseball v. John Zuccarini*, WIPO Case No. [D2002-1011](#)). Accordingly, UDRP panels agree that domain names which consist *e.g.* of an intentional misspelling of a trademark are considered to be confusingly similar under the UDRP (see [WIPO Overview 3.0](#), section 1.9).

Therefore, Complainant has established the first element under the Policy as set forth by paragraph 4(a)(i).

B. Rights or Legitimate Interests

The Panel is further convinced on the basis of Complainant's undisputed contentions that Respondent has not made use of the disputed domain name in connection with a *bona fide* offering of goods or services, nor has Respondent been commonly known by the disputed domain name, nor can it be found that Respondent has made a legitimate noncommercial or fair use thereof without intent for commercial gain.

Respondent obviously has not been authorized to use Complainant's ACCOLADE WINES trademark, either as a domain name or in any other way. Also, there is no reason to believe that Respondent's name somehow corresponds with the disputed domain name and Respondent does not appear to have any trademark rights associated with the terms "accolade" and/or "wines" on its own. On the contrary, Respondent used the disputed domain name, *inter alia*, in February and March 2023 in connection with an email phishing attack, thereby displaying Complainant's official ACCOLADE WINES logo and misleading some of Complainant's business partners into thinking that the phishing email was sent by Complainant's tender manager for Europe, the Middle East and Africa ("EMEA") markets, in order to induce Complainant's business partners into making wired payments to a new bank account, presumably controlled by Respondent. Such use of the disputed domain name obviously neither qualifies as *bona fide* nor as legitimate noncommercial or fair within the meaning of the Policy.

Accordingly, Complainant has established a *prima facie* case that Respondent has no rights or legitimate interests in respect of the disputed domain name. Now, the burden of production shifts to Respondent to come forward with appropriate allegations or evidence demonstrating such rights or legitimate interests (see [WIPO Overview 3.0](#), section 2.1). Given that Respondent has defaulted, it has not met that burden.

Therefore, the Panel finds that Complainant has also satisfied paragraph 4(a)(ii) and, thus, the second element of the Policy.

C. Registered and Used in Bad Faith

The Panel finally holds that the disputed domain name was registered and is being used by Respondent in bad faith.

The circumstances to this case leave no doubt that Respondent was fully aware of Complainant's rights in the ACCOLADE WINES trademark when registering the typo-squatted disputed domain name and that the latter clearly is directed to such trademark. Moreover, using the disputed domain name for phishing activities by sending fraudulent emails under it, thereby displaying Complainant's official ACCOLADE WINES logo and misleading some of Complainant's business partners into thinking that the phishing email was sent by Complainant's tender manager for Europe, the Middle East and Africa ("EMEA") markets, in order to induce Complainant's business partners into making wired payments to a new bank account, presumably controlled by Respondent, is a clear indication that Respondent intentionally attempted to attract, for commercial gain, Internet users to its own email communication by creating a likelihood of confusion with Complainant's ACCOLADE WINES trademark as to the source, sponsorship, affiliation or endorsement of Respondent's phishing emails. Such circumstances are evidence of registration and use of the disputed domain name in bad faith within the larger meaning of paragraph 4(b)(iv) of the Policy.

In this context, the Panel has also recognized from the case file that Respondent seems to have used the name and contact information of a third party when registering the disputed domain name, thus has committed an identity theft, which at least supports the Panel's finding of Respondent acting in bad faith. Also, it carries weight in the eyes of the Panel that Respondent obviously provided false or incomplete contact information in the Whois register for the disputed domain name since, according to the email correspondence between the Center and the postal courier DHL, the Written Notice on the Notification of Complaint dated March 28, 2023 could not be delivered due to a bad address. This fact at least throws a light on Respondent's behavior which again supports the Panel's bad faith finding.

Therefore, the Panel holds that Complainant has also satisfied the third element under the Policy as set forth by paragraph 4(a)(iii).

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 <acccoladewines.com> be transferred to Complainant.

/Stephanie G. Hartung/

Stephanie G. Hartung

Sole Panelist

Date: May 7, 2023