

ADMINISTRATIVE PANEL DECISION

Johnson & Johnson v. Melaine Brooks, Recruits Florida Tesla Case No. D2022-3422

1. The Parties

The Complainant is Johnson & Johnson, United States of America, represented by Fross Zelnick Lehrman & Zissu, PC, United States of America.

The Respondent is Melaine Brooks, Recruits Florida Tesla, United States of America.

2. The Domain Name and Registrar

The disputed domain name <hrcentrejnj.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 September 14, 2022. On September 15, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 15, 2022, 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 Protected by Withheld for Privacy ehf, Iceland) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 16, 2022, 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 September 20, 2022.

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 September 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 11, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 17, 2022.

The Center appointed Anne Gundelfinger as the sole panelist in this matter on October 21, 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

The Complainant Johnson & Johnson is public multinational corporation, founded over 130 years ago, that produces a wide range of pharmaceuticals, medical devices, and consumer healthcare products including some of the most well-known consumer products in the world, e.g., Neutrogena, Listerine, Band-Aid, Tylenol, and Johnson's. The Complainant's worldwide annual revenues exceed USD 90 billion. It has over 250 operating companies in 60 countries around the world and employs approximately 114,000 people globally.

The Complainant has registered the mark JNJ ("Mark" or "Complainant's Mark") in many markets around the world for a variety of goods and services. Among its registrations are the following, all of which predate by many years the Respondent's registration of the disputed domain name:

- Argentina Registration No. 2609107, registered 2013, 2605490, registered 2013, 2601403, registered 2013, 2601404, registered 2013, and 2605491, registered 2013;
- Australia Registration No. 897243, registered 2001;
- Brazil Registration No. 824644921, 824638611, 824638620, 824638646, 824638654, and 824638638, all registered in 2007;
- Canada Registration No. TMA646035, registered 2005;
- China Registration No. 3056677, registered 2003, 3056673, registered 2003, 3056674, registered 2003, and 3056675, registered 2004;
- Japan Registration No. 4703911, registered 2003;
- Mexican Registration No. 745574, 745575, 745576, 745577, and 745573, all registered in 2002; and
- United Kingdom Registration No. 2286338, filed 2001.

The Complainant registered the domain name <jnj.com> nearly thirty years ago and uses it for its primary consumer website as well as its primary corporate email address. Additionally, J&J employee email addresses use the subdomain <its.jnj.com>. Finally, the stock symbol for the Complainant on the New York Stock Exchange is also JNJ.

The disputed domain name was registered on May 24, 2022, using the privacy service Withheld for Privacy ehf and resolves to a parking page that displays pay-per-click ("PPC") sponsored links relating to the pharmaceutical industry and to various HR topics.

5. Parties' Contentions

A. Complainant

The Complainant contends that its rights in the JNJ Mark are well established due to its wide registration and further contends that the Mark is exclusively associated with the Complainant due to its long use as *inter alia* the Complainant's domain name for its main consumer-facing website as well as for its primary corporate email address. The Complainant argues that the disputed domain name is confusingly similar to its JNJ Mark because the disputed domain name wholly incorporates the Mark combined with the common English terms "HR" and "centre".

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name, and that the disputed domain name was registered and is being used in bad faith. Specifically, the Complainant asserts that it has given no authorization for the Respondent's registration or use of the disputed domain name, that the Respondent is not commonly known by the disputed domain name, and that the domain name was registered and has been used for a deceptive and potentially fraudulent email scheme. The Complainant has submitted substantial evidence of this email scheme in the form of email

chains between the Respondent and applicants seeking employment with the Complainant. In these emails, the Respondent uses the deceptive email address “Assessment Centre JNJ assessmentcentre@hrcentrejnj.com” and impersonates three different non-existent HR employees of the Complainant to solicit job applicants and then communicate with the applicants to arrange for in-person interviews and travel.

The Complainant’s evidence also demonstrates that the disputed domain name is being used for a parking page containing pay-per-click (PPC) links relating to the pharmaceutical industry and to various HR topics such as employee payroll, benefits, and training, a fact that the Panel has independently confirmed.

B. Respondent

The Respondent did not reply to the Complainant’s contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy requires that the Complainant prove the following three elements to be successful in this action: (i) the disputed domain name is identical or confusingly similar to trademarks or service marks in which the Complainant has rights; (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.

A. Identical or Confusingly Similar

The disputed domain name wholly incorporates the Complainant’s widely registered JNJ Mark along with the English terms “HR” and “centre”. It is well-established that the addition of other terms (whether generic, descriptive, geographical, pejorative, meaningless, or otherwise) to a complainant’s mark does not prevent a finding of confusing similarity between a domain name and that mark. See, section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) and cases cited therein. See also, *Allianz SE v. IP Legal, Allianz Bank Limited*, WIPO Case No. [D2017-0287](#); and *Accor v. WhoisGuard, Inc. / Bill Bro*, WIPO Case No. [D2018-2329](#).

Similarly, the addition of the generic Top-Level Domain (“gTLD”) “.com” is viewed as a standard registration requirement and as such is generally disregarded under the first element confusing similarity test.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s Mark, and that the first element of the test is satisfied

B. Rights or Legitimate Interests

It is well established that a complainant must present a *prima facie* case in relation to the second element of the Policy, not mere allegations. Once a *prima facie* showing is made, the burden of production shifts to the respondent to come forward with evidence of rights or legitimate interests in the disputed domain name. This burden-shifting is appropriate given that the respondent is often the only party with access to evidence of its own rights or legitimate interests. Accordingly, where a respondent fails to file a response, a UDRP panel may draw inferences from the failure to respond as appropriate under the circumstances of the case, and while still weighing all available evidence irrespective of whether a response is filed. See, section 2.1 of the [WIPO Overview 3.0](#) and cases cited therein. See also, *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

Here, the Complainant has asserted that it has no connection or affiliation with the Respondent and has given no authorization for the Respondent’s use of the disputed domain name. Moreover, the Complainant has submitted substantial evidence that the Respondent is using the disputed domain name (i) for a parking page featuring PPC links relating to pharmaceutical jobs and various HR topics, and (ii) as part of a

deceptive email address used to contact and communicate with job applicants seeking employment with the Complainant.

Turning first to the Respondent's use of the disputed domain name as part of a deceptive email address, it appears from the Complainant's evidence that the Respondent has used the email address "Assessment Centre JNJ [...]@hrcentrejnj.com" to contact and communicate with job applicants seeking employment with the Complainant. The scheme appears to be quite elaborate and includes the Respondent's impersonation of several non-existent HR employees of the Complainant. Its exact purpose is not entirely clear, as discussed further below. What is clear, however, is that the use of the disputed domain name to send deceptive emails impersonating the Complainant's HR staff to communicate with those seeking employment with the Complainant is hardly above-board and clearly fails to establish rights or legitimate interests.

Turning next to the Respondent's use of the disputed domain name for the parking page, it is the consensus view that PPC use such as that found here is neither a fair use nor a *bona fide* offering of goods or services under the Policy and therefore does not establish rights or legitimate interests. See *e.g.*, *Virgin Enterprises Limited v. LINYANXIAO aka lin yanxiao*, WIPO Case No. [D2016-2302](#). See also section 2.9 of the [WIPO Overview 3.0](#) and cases cited therein.

Given the evidence submitted, the Panel finds that the Complainant has made the required *prima facie* showing that the Respondent has no rights or legitimate interests in the disputed domain name. As previously noted, the Respondent has submitted no response or evidence in this proceeding. Accordingly, in the absence of countervailing evidence from the Respondent, the Panel concludes that the Respondent has no rights or legitimate interests in the disputed domain name, and that the second element of the test is satisfied

C. Registered and Used in Bad Faith

The third element of the test requires a showing that the disputed domain name has been registered and is being used in bad faith.

The Complainant's Mark is established and widely-registered and has been used for many years as the Complainant's domain name for its primary consumer-facing website as well as its corporate email address. Given the foregoing and the fact that the Respondent used the disputed domain name to send deceptive emails in which the Respondent impersonates the Complainant's HR staff, there can be no doubt that the Respondent knew of and was targeting the Complainant's JNJ Mark.

To what purpose is somewhat less clear. The Complainant claims that the email scheme is fraudulent without clearly explaining how. The Complainant argues that the job applicants were "offered" positions in connection with a "visa scam", while also making arguments regarding the misleading solicitation of payments from unsuspecting vendors of the Complainant. The evidence submitted by the Complainant does not support either of these theories, and the Panel finds them confusing.

However, what is clear from the Complainant's evidence is that the Respondent has implemented an elaborate email scheme in which it impersonates the Complainant's HR staff to directly solicit job applicants, arrange for apparent interviews, and gather their personal information. The email evidence also demonstrates that the applicants were encouraged to use a particular travel agency to arrange for travel to the interviews, which the applicants were told they would need to pay for themselves with a promise of later reimbursement. Accordingly, the evidence strongly suggests either a phishing scheme and/or a scheme where applicants were asked to make payments to a "travel agency" (presumably under control of the Respondent) under false pretenses. While we do not know precisely what happened, the Panel can think of no honest and above-board reason for the use of the disputed domain name in this manner, and as already noted, the Respondent has provided none. Accordingly, the weight of the evidence is that the Respondent has registered and used the disputed domain name in bad faith to engage in clearly misleading and potentially fraudulent activity. See *Facebook, Inc. v. WhoisGuard, Inc. / Donna E. Fleming, Mansmann's Department Store*, WIPO Case No. [D2019-1777](#).

In addition to the misleading and fraudulent email scheme, the Respondent has also used the disputed domain name for a website containing PPC links relating to the pharmaceutical industry and to various HR topics such as employee payroll, benefits, and training. Such use also supports a finding of bad faith in that the Respondent has targeted the Complainant's Mark and used it as part of a domain name to drive traffic to revenue-generating PPC links for commercial gain. See, paragraph 4(b)(iv) of the UDRP; sections 3.1, 3.1.4, and 3.5 of the [WIPO Overview 3.0](#); *Dr. Martens International Trading GmbH, Dr. Maertens Marketing GmbH v. Private Whois Service*, WIPO Case No. [D2011-1753](#).

The Panel therefore concludes that the disputed domain name was registered and has been used in bad faith and that the third element of the test is satisfied

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, <hrcentrejnj.com>, be transferred to the Complainant.

/Anne Gundelfinger/

Anne Gundelfinger

Sole Panelist

Date: November 4, 2022