

## **ADMINISTRATIVE PANEL DECISION**

Johnson & Johnson v. Joana Kudrow  
Case No. D2023-3041

### **1. The Parties**

The Complainant is Johnson & Johnson, United States of America (“United States”), represented by Fross Zelnick Lehrman & Zissu, P.C., United States.

The Respondent is Joana Kudrow, United Kingdom.

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

The disputed domain name <johnsons-recruitment.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 July 14, 2023. On July 17, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 17, 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 protected by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 27, 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 August 1, 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 August 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 1, 2023.

The Center appointed Assen Alexiev as the sole panelist in this matter on September 7, 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 a healthcare products company, founded in 1886. It operates in 60 countries and employs approximately 155,000 people.

The Complainant is the owner of the following trademark registrations for the sign “JOHNSON & JOHNSON” (the “JOHNSON & JOHNSON trademark”):

- the United States trademark JOHNSON & JOHNSON with registration No. 3052604, registered on January 31, 2006 for goods and services in International Classes 25, 35 and 44;
- the European Union trademark JOHNSON & JOHNSON with registration No. 3474764, registered on April 25, 2005 for goods and services in International Classes 3, 5, 9, 10, 12, 16, 21, 35, 41, 42, 44 and 45; and
- the United Kingdom trademark JOHNSON & JOHNSON with registration No. UK00903428943, registered on February 8, 2005 for goods and services in International Classes 3, 5, 9, 10, 12, 16, 21, 35, 41, 42, 44 and 45.

The disputed domain name was registered on May 17, 2020. It resolves to a website with the header “ProfyLink Innovations London Recruitment Office” and offers a live chat feature. At the time of the filing of the Complaint, it had articles about immigration to Canada and how to obtain a visa for Ireland.

#### **5. Parties’ Contentions**

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

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

The Complainant submits that the disputed domain name is confusingly similar to its JOHNSON & JOHNSON trademark, because it incorporates in whole the dominant “johnsons” element of this trademark combining it with the dictionary word “recruitment”. The Complainant adds that the disputed domain name was used by the Respondent in a fraudulent job application and visa scam.

The Complainant maintains that given the reputation of its JOHNSON & JOHNSON trademark, most Internet users are likely to recognize this trademark in the disputed domain name and assume that it and any email messages sent from it or any website associated with it is controlled or approved by the Complainant.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, because it has no connection or affiliation with the Complainant and has not been authorized to use the Complainant’s trademark in domain names or in any other manner. The Complainant notes that its adoption and extensive use of the JOHNSON & JOHNSON trademark predates the Respondent’s registration of the disputed domain name. The Complainant points out that the Respondent has only used the disputed domain name to set up an email server and to send fraudulent email messages to confuse various job applicants into believing that they had been hired at the Complainant’s company, requiring that they submit personal information and payment to obtain a work visa.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. According to it, the Respondent was aware of the Complainant's JOHNSON & JOHNSON trademark when registering the disputed domain name, and by using the disputed domain name and its associated email address, the Respondent impersonates the Complainant. The Complainant adds that the Respondent's exploitation of the Complainant's goodwill for financial gain by perpetrating a fraud on the Complainant demonstrates the Respondent's bad faith, further evidence for which is the submission of false Whois data for the registration of the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of the JOHNSON & JOHNSON trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the JOHNSON & JOHNSON trademark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to this trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms (here, "recruitment") may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the JOHNSON & JOHNSON trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel therefore finds the first element of the Policy has been established.

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

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the

Policy or otherwise. The Respondent has not alleged or shown that it has used the disputed domain name in connection with a *bona fide* offering of goods or services, that it is being commonly known by the disputed domain name, or that it has made a legitimate noncommercial fair use of the disputed domain name.

Panels have held that the use of a domain name for illegal activity (e.g., impersonation/passing off) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. Here, the Complainant contends that the Respondent has used the disputed domain name for an email address from which it has distributed fraudulent email messages to various job applicants confusing them to believe that they had been hired at the Complainant's company, requiring that they submit personal information and payment to obtain a work visa. The Respondent has not denied or rebutted this statement. Such use of the disputed domain name is therefore more likely than not, and it excludes a finding that the Respondent has rights or legitimate interests in the disputed domain name.

Based on the available record, the Panel therefore finds the second element of the Policy has been established.

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

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity (e.g., impersonation/passing off) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy. The Complainant submits that the Respondent has set up an email address with the disputed domain name and has distributed deceptive email messages through it, thus impersonating the Complainant, in an attempt to receive financial gain by fraud. This statement of the Complainant has remained unrebutted by the Respondent, so the Panel accepts that it is likely true.

Based on the available record, the Panel therefore finds the third element of the Policy has been established.

## **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 <johnsons-recruitment.com> be transferred to the Complainant.

/Assen Alexiev/

**Assen Alexiev**

Sole Panelist

Date: September 21, 2023