

ADMINISTRATIVE PANEL DECISION

Teleperformance SE v. Name Redacted

Case No. D2023-3927

1. The Parties

The Complainant is Teleperformance SE, France, represented by MIIP MADE IN IP, France.

The Respondent is Name Redacted¹.

2. The Domain Name and Registrar

The disputed domain name <teleperformance.today> is registered with Squarespace Domains LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 20, 2023. On September 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 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 (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 21, 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 September 26, 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 The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted apportion of the 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 the name of the Respondent. 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Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case.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 *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 the Respondent of the Complaint, and the proceedings commenced on October 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 27, 2023.

The Center appointed Marilena Comanescu as the sole panelist in this matter on November 10, 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, Teleperformance SE, is a European company founded in 1978 and headquartered in Paris, France, which offers services related to outsourced omnichannel customer experience management in more than 170 countries, and has more than 410,000 employees around the world.

The Complainant owns trademark registrations for TELEPERFORMANCE across various jurisdictions, such as the following:

- the International Trademark registration number 1462808 for the words with device element TELEPERFORMANCE EACH INTERACTION MATTERS, registered on August 6, 2018, designating, *inter alia*, the United Kingdom and covering goods and services in Nice classes 9, 16, 35, 38, 41, 42; and
- the European Union trademark registration number 003460524 for TELEPERFORMANCE, filed on October 29, 2003, and registered on September 26, 2005, covering goods and services in Nice classes 16, 35, and 38.

The Complainant is the owner of the domain name <teleperformance.com>.

The disputed domain name was registered on July 3, 2023, and at the time of filing the Complaint, it resolved to an error page.

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. Notably, the Complainant contends that the disputed domain name is identical to its well-known trademark TELEPERFORMANCE; that the Respondent has no rights or legitimate interests in the disputed domain name; and that the Respondent registered and is using the disputed domain name in bad faith, since, *inter alia*, MX servers are configured on the disputed domain name, indicating that the Respondent could use the MX servers for phishing purposes, such as sending fraudulent emails.

In its Annex 12 to the amended Complaint, the Complainant submits that the individual registered as the underlying registrant for the disputed domain name is one of its employees and that such employee has no connection with the registration of the disputed domain name, therefore it is an identity theft case; and the postal address registered in the Whois is fictitious.

B. Respondent

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

6. Discussion and Findings

In view of the absence of a Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent. Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the following circumstances are met:

- (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.

The Panel will further analyze the potential concurrence of the above circumstances.

A. Preliminary Procedural Issue. Respondent and Redaction of Respondent's Identity

As noted above, the Name Redacted (together with the company name of the Complainant) has been confirmed by the Registrar as the listed registrant of record for the disputed domain name.

The Complainant comments in its Amended Complaint that the Respondent is usurping the identity of one of its employees, i.e. Name Redacted.

The Panel will refer to the individual listed as the registrant for the disputed domain name as Name Redacted, and to the individual or entity which registered the disputed domain name as the Respondent.

The Panel is satisfied that the Center, by sending communications to the registrant revealed by the Registrar to its listed Whois postal addresses and email addresses indicated in the Complaint and revealed by the Registrar, has exercised extreme care and discharged its responsibility under paragraph 2 of the Rules to employ all reasonably available means to serve actual notice of the Complaint upon the Respondent.

In this proceeding, neither the Complainant nor Name Redacted requested the Center to redact the Name Redacted's name from the corresponding decision, to be further made available on the Internet.

This gives rise to the question whether there should be a redaction from the decision to protect the privacy of Name Redacted, as per the Panel's own discretion.

Under paragraph 4(j) of the Policy the Panel has the power to determine to redact portions of its decision in exceptional circumstances. The practical result of the exercise of this power is that the provider, in this case the Center, will not publish on the Internet the full decision, but will redact the portion determined by the Panel to be redacted.

The evidence has made it clear in the opinion of this Panel that a fraud was perpetrated, and that Name Redacted is one of the victims of identity theft. Thus, although the disputed domain name holder is the proper Respondent in this proceeding, the real name and contact details of the person who wrongly effected the registration of the disputed domain name is unknown.

This Panel has formed the view that it may be unfair to Name Redacted - a name that corresponds to an employee of the Complainant - and would serve no purpose other than to potentially harm an innocent party by having its name associated with the proceeding, especially where the impression may be given to Internet users that Name Redacted has some responsibility for some of the events, whereas in fact Name Redacted does not, being an innocent party.

The Panel has therefore decided that in all the circumstances this is an exceptional case and that it is appropriate to redact the registrant's name and information from the Panel's decision.

See also *Sodexo v. Contact Privacy Inc. Customer 12412617261*, *Contact Privacy Inc. Customer 12412617261 / Name Redacted*, WIPO Case No. [D2022-1399](#).

B. 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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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

C. 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 disputed domain name does not resolve to any active websites and although properly notified in the present proceeding, the Respondent choose to remain silent and 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.

Furthermore, the disputed domain name was registered under the name of one of the Complainant's employees and the disputed domain name is associated with available MX records and servers publicly known for malware distribution. In this regard, panels have categorically held that the use of a domain name for illegal activity (such as swindle, fraud, identity theft, phishing and impersonation) can never confer rights or legitimate interests in a respondent. See section 2.13 of the [WIPO Overview 3.0](#).

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

D. 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.

In the present case, the Panel notes that the disputed domain name was registered in bad faith, with knowledge of the Complainant and its trademark particularly because the Respondent used the name of one of the Complainant's employees, i.e. Name Redacted; the Complainant uses in commerce the TELEPERFORMANCE trademark, domain name, and trade name since at least 2003; and, the disputed domain name reproduces the Complainant's mark exactly.

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.

At the time of filing the Complaint, the disputed domain name resolved to an error page.

UDRP panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the misleading domain name may be put. [WIPO Overview 3.0](#), section 3.3.

The Panel notes the distinctiveness and international reputation of the Complainant's trademark; the nature of the disputed domain name, which is virtually identical to the Complainant's trademark, domain name and trade name; the Respondent's failure to provide a response in this procedure; the registration of the disputed domain name using the name of one of the Complainant's employees; the Respondent's physical address listed in the Whois was inaccurate or incomplete; the implausibility of any good faith use to which the disputed domain name may be put and finds that, in the circumstances of this case, the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Furthermore, according to evidence on the record, the disputed domain name has active MX records. This entails that the Respondent can send emails through the email address "[...]@teleperformance.today". The Respondent can therefore use (or may already have used) the disputed domain name to send fraudulent emails such as messages containing spam, phishing attempts, etc. See also *Confédération Nationale du Crédit Mutuel, Crédit Industriel et Commercial v. Khodor Dimassi*, WIPO Case No. [D2016-1980](#); or *Statoil ASA v. Registration Private, Domains By Proxy, LLC / Eldar Saetre*, WIPO Case No. [D2018-0563](#).

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

Based on the available record, the Panel 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 <teleperformance.today> be transferred to the Complainant.

For purposes of properly executing this order, the Panel also directs the Registrar's attention to Annex 1 hereto that identifies the entity listed as registrant of the disputed domain name in the formal record of registration, and orders that the disputed domain name, <teleperformance.today>, be transferred from that entity to the Complainant.

The Panel directs the Center that Annex 1 shall not be published along with this Decision.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: November 22, 2023