

ADMINISTRATIVE PANEL DECISION

Blackbaud, Inc. v. Host Master, Transure Enterprise Ltd
Case No. D2022-0530

1. The Parties

The Complainant is Blackbaud, Inc., United States of America (“United States”) (“Complainant”), represented by Soteria LLC, United States.

The Respondent is Host Master, Transure Enterprise Ltd, United States (“Respondent”).

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 15, 2022. On February 16, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 18, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on February 18, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on February 18, 2022.

The Center verified that the Complaint together with the amendment to the Complaint (hereinafter (the “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 Respondent of the Complaint, and the proceedings commenced on February 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 17, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on March 18, 2022.

The Center appointed M. Scott Donahey as the sole panelist in this matter on March 22, 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

Complainant is the owner of the trademark registration ACADEMICWORKS, United States Registration No. 4,287,823, registered on February 12, 2013. Complainant operates a scholarship process and award management solution used by educational institutions across the United States. Complainant's domain name <academicworks.com> redirects the user to a web site page designed and operated by Complainant. It currently reads in pertinent part: "*AcademicWorks* is now part of Blackbaud. LEARN MORE ABOUT ACADEMICWORKS (NOW BLACKBAUD AWARD MANAGEMENT)". Complainant created "*AcademicWorks*" as a scholarship management solution to be used by K-12 institutions and higher education foundations globally. Complainant provided evidence that the disputed domain name redirects to a parked page with pay-per-click links.

5. Parties' Contentions

A. Complainant

Complainant argues that the disputed domain name is confusingly similar to Complainant's registered trademark ACADEMICWORKS. Complainant contends that Respondent has no rights or legitimate interest in respect of the disputed domain name. Complainant believes that Respondent may be intending to flip or sell the disputed domain name for a profit. However, Complainant admits that it has no evidence to support this theory.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

"A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Paragraph 4(a) of the Policy directs that the complainant must prove each of the following:

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

A. Identical or Confusingly Similar

Complainant has provided evidence that it owns registered trademark rights in the ACADEMICWORKS trademark. While Complainant's trademark may correspond to a descriptive term, "*academic works*", which can be descriptive of many products of a professor or a school of higher education, the Panel notes that issues such as the strength of a complainant's mark are decided under the second and third elements. For the purposes of the first element, there is no question that the disputed domain name includes the

Complainant's trademark. Therefore, the Panel finds that the disputed domain name is confusingly similar to Complainant's ACADEMICWORKS trademark.

B. Rights or Legitimate Interests

While the overall burden of proof in UDRP proceedings is on the complainant, UDRP panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the almost 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 of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 2.1.

In the present case, Complainant alleges that Respondent has no rights or legitimate interests in respect of the disputed domain name and Respondent has failed to assert any such rights. Accordingly, the Panel finds that Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

Complainant has effectively admitted that it is unable to prove bad faith registration and use. Complainant's assertion in its entirety under the section requiring proof of bad faith registration and use is as follows:

"We have no evidence that this domain was/is being used in bad faith. We believe that the domain owner may be attempting to domain flip, or to sell the domain name for a profit. However, we have no concrete evidence that proves this theory."

Given the above admission that Complainant can produce no evidence in support of the third requirement, the Panel finds that Complainant has failed to establish bad faith registration and use. Should the Complainant discover such evidence (reasonably unavailable to Complainant at the time the original case was filed), Complainant is free to refile its complaint attaching such relevant evidence.

7. Decision

For the foregoing reasons, the Complaint is denied.

/M. Scott Donahey/

M. Scott Donahey

Sole Panelist

Date: March 25, 2022