

ADMINISTRATIVE PANEL DECISION

iHeartMedia, Inc., iHM Identity, Inc. v. Eldar Kerimov
Case No. D2022-0877

1. The Parties

The Complainants are iHeartMedia, Inc., United States of America (“United States”), and iHM Identity, Inc., United States (collectively referred as “the Complainant”), represented by Lewis Silkin LLP, United Kingdom.

The Respondent is Eldar Kerimov, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <iheartmedia.jobs> (the “Domain Name”) is registered with Key-Systems GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 14, 2022. On March 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On March 16, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainants on April 5, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amendment to the Complaint on April 5, 2022.

The Center verified that the Complaint together with the amendment to 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 the Respondent of the Complaint, and the proceedings commenced on April 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 26, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 6, 2022.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on May 12, 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 first Complainant, iHeartMedia, Inc., is the parent company of the second Complainant, iHM Identity, Inc. iHeartMedia, Inc. is an audio company, which is established in 1972 and is headquartered in San Antonio, United States. iHeartMedia, Inc. carries out services in the entertainment business that include, among others, radio broadcasting, podcasting, and online, digital, and live concerts and events. iHeartMedia, Inc. has a large national reach. It has more than 860 live broadcast stations active in over 160 markets. iHM Identity, Inc. is the owner of the intellectual property rights of the group. iHeartMedia, Inc. is the exclusive licensee of the intellectual property rights held by iHM Identity, Inc.

For the sake of simplicity, this decision will refer in singular to the Complainant if there is no particular purpose to distinguish between the Complainants.

The Complainant is the owner of several trademark registrations, including, but not limited to the United States trademark registration IHEARTMEDIA (word mark), with registration no. 5492427 and with a registration date of June 12, 2018, for goods and services in Classes 9, 35, 36, 38, 41, and 42, and the Russian Federation trademark registration for the trademark IHEART MEDIA (word mark), with registration no. 2014731326 and with a registration date of December 23, 2015, for goods and services in Classes 9, 35, 36, 38, 41, and 42. The aforementioned trademark registrations will hereinafter also jointly be referred to as the "Trademark".

The Domain Name was registered on March 14, 2021. The website to which Domain Name resolves ("Website"), contains pornographic content and seems to promote prostitution services.

5. Parties' Contentions

A. Complainant

The Complainant contends the following:

The Domain Name is identical or at least confusingly similar to the Trademark. Moreover, the use of a different domain name extension like ".jobs" instead of ".com" which Complainant uses for its own domain name <iheartmedia.com>, cannot lead to a different conclusion other than that the Domain Name is identical or confusingly similar to the Trademark. Moreover, the Complainant submit that they enjoy a global reputation in their Trademark and it is permissible for the Panel to ignore the Top-Level Domain ("gTLD"). The Registrant has no rights or legitimate interests in regard to the Domain Name. The Respondent has not secured any (registered) rights with regard to the Domain Name. Nor has the Complainant ever given its permission to the Respondent to make use of the Trademark. The Respondent is also not commonly known by the Domain Name. The Website contains pornographic material, it appears to be operating in partnership with a Moscow based "model agency", but is suspected to be a brothel. Such use of the Domain Name cannot constitute a *bona fide* offering of goods and services.

The Website contains pornographic material with the aim of increasing the threat of reputational harm to the Complainant, thereby increasing the value and urgency of a potential sale of the Domain name to the Complainant. Such interest cannot be legitimate by any reasonable interpretation.

Moreover, the Domain Name has been registered and is being used in bad faith. The Respondent registered the Domain Name with prior knowledge of the Trademark. The Respondent has also used a

privacy service to register the Domain Name. Moreover, the Domain Name is not being used for any genuine activities, considering the fact that the Registrant uses the Domain Name to offer pornographic content and prostitution services. In addition, the Respondent could not have registered the Domain Name without agreeing to the “.jobs” gTLD eligibility requirements, applicants for a “.jobs” gTLD: must be tasked with Human Resources duties on behalf of their own employer organization; are authorized to purchase their companyname.jobs on behalf of their employer organization; abide by the “.jobs” Use Policies; and agree to abide by the SHRM Code of Professional Ethics (see “www.shrm.org/about-shrm/pages/code-of-ethics.aspx”). The Respondent had no authority to apply for and use the Domain Name and in doing so claimed a connection with the Complainant that may amount to business impersonation.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements:

- (i) the 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 respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has sufficiently proven to have rights in the Trademark.

The Domain Name is comprised of the IHEARTMEDIA Trademark in its entirety. The Panel, therefore, finds that the Domain Name is identical to the relevant Trademark. The use of the domain name extension “.jobs” does not lead to any other conclusion. In accordance with section 1.11 of the [WIPO Overview 3.0](#), the top level domain is in principle disregarded under the first element.

The Panel, therefore, finds that the first element has been satisfied.

B. Rights or Legitimate Interests

The Complainant in its Complaint and as set out above, has established a *prima facie* case that the Respondent has no rights or legitimate interests in the Domain Name.

The Panel could not find any evidence by referring to the types of evidence set forth in paragraph 4(c) of the Policy from which the Panel might conclude that the Respondent has rights or legitimate interests in the Domain Name, such as:

- (i) use or preparation to use the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services prior to notice of the dispute; or
- (ii) being commonly known by the Domain Name (as an individual, business or other organization) even if the Respondent has not required any trademark or service mark rights; or
- (iii) making legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The *prima facie* case presented by the Complainant is enough to shift the burden of proof to the Respondent to demonstrate that it has rights or legitimate interests in the Domain Name. However, the Respondent has not presented any evidence of any rights or legitimate interests it may have in the Domain Name, and the Panel is unable to establish any such rights or legitimate interests on the basis of the evidence in front of it.

In more detail, the Complainant has asserted that the Respondent cannot be commonly known by the Domain Name. In addition to this, there is no evidence that the Respondent has applied for or obtained any trademark rights related to the name IHEARTMEDIA. The Respondent was also never authorized to register the Domain Name nor has the Respondent ever asked for such permission.

The Respondent has also not put forward any evidence that would support the claim that the Respondent has used or made preparations to use the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services.

The Website includes pornographic material and seems to offer prostitution services without any obvious justification for using or connection with the Domain Name. Certainly lacking a Response, the Panel considers that any *bona fide* offering of goods or services is implausible.

In addition, the Respondent's use cannot be considered a legitimate noncommercial or fair use.

The Panel, therefore, finds that the second element has been satisfied.

C. Registered and Used in Bad Faith

The Panel finds that the Respondent has registered and used the Domain Name in bad faith and refers to its consideration under section 6.B. above.

In light of the evidence filed by the Complainant, the Panel finds that the Trademark and the Complainants' activities are well known and also in the country where the Respondent purports to be located. The Complainants are owner of numerous trademarks which were used and registered many years before the Domain Name was registered. Furthermore, the Complainants have over 158 million registered users and their social media channels generated roughly 482 billion social impressions in 2021. Accordingly, in the Panel's view, the Respondent must have been aware of the existence of the Complainants' activities and rights at the time the Respondent registered the Domain Name.

Using the Domain Name for the Website which includes pornographic material and possibly offering prostitution services without any obvious justification for using it or in connection with this Domain Name, must on a balance, be considered as bad faith, and certainly as no Response has been filed.

There is no other plausible explanation than that the Respondent has registered and is using the Domain Name to either offer it for sale to the Complainant for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the Domain Name, for the purpose of disrupting the business of Complainant or to attract, for commercial gain, Internet users to the Website, by creating a likelihood of confusion with the Trademark.

Moreover, the Panel takes into consideration that the Respondent has been hiding behind a privacy shield. In accordance with section 3.6 of the [WIPO Overview 3.0](#) this also supports a finding of registration and or use in bad faith.

Finally, although the lack of a formal or substantive response by the Respondent as such cannot by itself lead to the conclusion that there is registration and use in bad faith, the cumulative circumstances as outlined in the Decision are sufficient for the Panel to find that the registration and use of the Domain Name by the Respondent is in bad faith.

In the light of the above circumstances, the Panel is satisfied that the third element of the Policy is met and that the Domain Name was registered and is being used in bad faith.

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 Domain Name, <iheartmedia.jobs> be transferred to the second Complainant, iHM Identity, Inc.

/Willem J. H. Leppink/

Willem J. H. Leppink

Sole Panelist

Date: May 23, 2022