

ADMINISTRATIVE PANEL DECISION

Blackbaud, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico
Case No. D2022-1522

1. The Parties

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

The Respondent is Registration Private, Domains By Proxy, LLC, United States / Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <atjustgiving.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 27, 2022. On April 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 29, 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 the Complainant on April 29, 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 May 3, 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 May 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 24, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 25, 2022.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on May 31, 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 in this proceeding is a cloud computing services provider that mainly provides services to the social profit and non-profit sector. The Complainant submits evidence that in 2017 it acquired the company JG US, Inc.

The Complainant provides evidence that it owns, through its subsidiary JG US, Inc., a trademark registration (word mark) for JUSTGIVING, namely, United States trademark registration number 5792260, registered on July 2, 2019.

The disputed domain name was registered on April 6, 2022, and is therefore of a later date than the abovementioned trademark registration. The disputed domain name is currently inactive, but used to link to an active website, displaying what are presumed to be pay-per-click hyperlinks to third party service providers.

5. Parties' Contentions

A. Complainant

The Complainant essentially contends that the disputed domain name is confusingly similar to its prior trademark for JUSTGIVING, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered, and is being used in bad faith.

The Complainant particularly claims that the Respondent is neither affiliated nor authorized to register or use the disputed domain name containing the JUSTGIVING trademark, and that the Respondent has neither used the disputed domain name nor provided any proof of preparations for a *bona fide* offering of goods or services, as the website is parked on the "related links" page displaying advertisement links. As to bad faith, the Complainant contends that it is likely that the disputed domain name was registered for the purpose of domain flipping and also argues that that the disputed domain name has been linked to an Email Exchange ("MX") server which could lead to harmful phishing campaigns by the Respondent. The Complainant essentially contends that the abovementioned use of the disputed domain name does not confer any rights or legitimate interests in respect of the disputed domain name and constitutes registration and use in bad faith. The Complainant also contends in its amended Complaint that the Respondent has been involved in a previous UDRP case.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

The Policy requires the Complainant to prove three elements:

- (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 respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Based on the evidence and arguments submitted, the Panel's findings are as follows:

A. Identical or Confusingly Similar

The Panel finds that the Complainant has shown sufficient evidence that it has valid rights in the mark JUSTGIVING, based on the abovementioned trademark registration owned by its subsidiary.

Moreover, as to confusing similarity, the Panel refers to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8, which states: "where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element." The Panel considers that the disputed domain name consists of two elements: the word "at" as the first element, and the Complainant's trademark JUSTGIVING as the second element. The Panel therefore finds that the Complainant's registered trademark remains clearly recognizable in the disputed domain name. The applicable generic Top-Level Domain ("gTLD") (".com" in this case) is viewed as a standard registration requirement, and may as such be disregarded by the Panel, see in this regard the [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark, and the first element required by the Policy is fulfilled.

B. Rights or Legitimate Interests

On the basis of the evidence and arguments submitted, the Panel finds that the Complainant makes out a *prima facie* case that the Respondent is not, and has never been, an authorized reseller, service provider, licensee, or distributor of the Complainant, and that the Respondent is not a *bona fide* provider of goods or services under the disputed domain name and is not making legitimate noncommercial use or fair use of the disputed domain name. The Panel also notes that the Respondent is not commonly known by the disputed domain name. As such, the Panel finds that the burden of production regarding this element shifts to the Respondent (see [WIPO Overview 3.0](#), section 2.1). However, no evidence or arguments have been submitted by the Respondent in reply.

Moreover, upon review of the facts and evidence, the Panel notes that the disputed domain name directs to an active webpage containing what are presumed to be pay-per-click hyperlinks to third party service providers. The Panel finds that such use does not represent a *bona fide* offering of goods or services as such links compete with or capitalize on the reputation and goodwill of the Complainant's registered trademark and mislead Internet users (see also the [WIPO Overview 3.0](#), section 2.9; and previous UDRP decisions in this sense such as *Alain Afflelou Franchiseur v. lihongbo*, WIPO Case No. [D2020-2074](#)).

On the basis of the foregoing elements, the Panel considers that none of the circumstances of rights or legitimate interests envisaged by paragraph 4(c) of the Policy apply, and that the Complainant has satisfied the requirements of the second element under the Policy.

C. Registered and Used in Bad Faith

The Panel finds that the registration of the disputed domain name, which incorporates the Complainant's trademark in its entirety, was clearly intended to mislead and divert consumers away from the Complainant's official website, to the website linked to the disputed domain name. The Panel also considers the disputed domain name to be so closely linked and so obviously connected to the trademark JUSTGIVING that the Respondent's registration of the disputed domain name persuasively points toward the Respondent's bad faith. In the Panel's view, the preceding elements clearly indicate the bad faith of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain

name in bad faith.

As to use of the disputed domain name in bad faith, the website linked to the disputed domain name displays pay-per-click hyperlinks to third party service providers, which shows, in the Panel's view, that the Respondent is misleading and diverting Internet users for commercial gain to such third party websites. Moreover, the Complainant also provides evidence that the MX records for the disputed domain name indicate that the Respondent has connected the disputed domain name to an email server, which creates a grave risk that the Respondent may be using the disputed domain name, which is confusingly similar to the Complainant's trademark, for potential phishing and spamming activities (see in this sense also previous UDRP decisions such as *Accenture Global Services Limited v. Leed Johnny (蒋黎)*, WIPO Case No. [D2020-0578](#)). The preceding elements lead the Panel to conclude that the Respondent is using the disputed domain name in bad faith, to take unfair advantage of the Complainant's registered trademark. The Panel therefore finds that it has been demonstrated that the Respondent is using the disputed domain name in bad faith.

Finally, the Respondent has failed to provide any response or evidence to establish its good faith or absence of bad faith. The Panel therefore finds that the Complainant has satisfied the requirements of the third element under the Policy.

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

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: June 14, 2022