

ADMINISTRATIVE PANEL DECISION

Guardrisk Insurance Company Limited v. Domain Administrator, See
PrivacyGuardian.org / Tobe Uche
Case No. D2022-1654

1. The Parties

The Complainant is Guardrisk Insurance Company Limited, South Africa, represented by D.M. Kisch Inc., South Africa.

The Respondent is Domain Administrator, See PrivacyGuardian.org, United States of America (“United States”) / Tobe Uche, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <guardriskconsults.com> (the “Domain Name”) is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 6, 2022. On May 6, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 6, 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 Complainant on May 11, 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 16, 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 17, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 6, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 7, 2022.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on June 15, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is part of a group of companies affiliated to Momentum Metropolitan Holdings Limited that offers a range of products and services for individuals and corporates including medical aid, car and home insurance, life insurance, investments and savings including asset and property management, financial and retirement planning and employment benefits. The Complainant provides a number of financial and investment products and services to consumers under the GUARDRISK name and trademark since 1992.

The Complainant has promoted its services under the GUARDRISK name and trademark on various marketing mediums. In the last nine months, the Complainant has spent in excess of USD 95,000 in marketing and advertising campaigns and the GUARDRISK service offering has achieved reputation in South Africa.

The Complainant owns trademark registrations and applications, such as South Africa Registration no. 2012/14601 registered on September 29, 2014, and South Africa Application no. 2016/03551 applied for on February 11, 2016.

According to the Registrar, the Domain Name was created on September 23, 2019. At the time of Complaint, the Domain Name resolved to a website allegedly selling financial and investment related products and services. The Complainant's registered trademark was used without authorization at the top of the Website. The website gave the false impression that it is connected or related to the Complainant. Moreover, the website used photographs of individuals from a South African Intellectual Property Law Firm with fictitious names thereto. At the time of Decision, the Domain Name resolved to a blank index page.

5. Parties' Contentions

A. Complainant

The Complainant provides evidence of trademark registrations, and argues that the Domain Name reproduces the dominant portion of the Complainant's registered trademark in its entirety, in addition to the non-distinctive and descriptive word "consults".

The Complainant asserts that the Respondent is not authorized to use the Complainant's trademark. The Respondent cannot establish rights in the Domain Name, as it has not made any use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering of goods or services. The Complainant submits that the Respondent's use of the Domain Name shows a clear intent to obtain an unfair commercial gain, with a view to misleadingly diverting consumers or to tarnish the trademark owned by the Complainant. The website contains false and fraudulent information.

The Complainant argues it is evident from the Respondent's use of the Domain Name that the Respondent knew of the Complainant's trademark when registering the Domain Name. The Respondent must have chosen the Domain Name with the intention of invoking a misleading association with the Complainant. It is evident from the Respondent's use of the Domain Name that the Respondent registered and used the Domain Name with the intention to attract, for commercial gain, internet users to the website by creating a likelihood of confusion with the Complainant's trademark. Finally, the fact that Respondent is using a privacy protection service to hide its identity may in itself constitute a factor indicating bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has established that it has rights in the trademark GUARDRISK. The test for confusing similarity involves a comparison between the trademark and the Domain Name. The Domain Name incorporates the Complainant's trademark, with the addition of the term "consults". The addition does not prevent a finding of confusing similarity between the Domain Name and the trademark, see [WIPO Overview 3.0](#), section 1.8. For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domains ("gTLDs"), see [WIPO Overview 3.0](#), section 1.11.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant has made unrebutted assertions that it has not granted any authorization to the Respondent to register a domain name containing the Complainant's trademark or otherwise make use of the Complainant's mark. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired unregistered trademark rights. The Respondent has not made use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering. The Respondent's use of the Domain Name is not *bona fide*, but rather evidence of bad faith. Further, the composition of the Domain Name carries a risk of implied affiliation not considered fair use as it "effectively impersonates or suggests sponsorship or endorsement by the trademark owner" (see [WIPO Overview 3.0](#), section 2.5.1).

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Based on the Respondent's use of the Domain Name, the Panel finds that the Respondent knew of the Complainant's trademark when the Respondent registered the Domain Name. It is evident from the same use of the Domain Name that the Respondent has used the Domain Name with the intention to attract, for commercial gain, Internet users to the website by creating a likelihood of confusion with the Complainant's trademark. Moreover, the composition of the Domain Name suggests that the Respondent was aware of the Complainant when registering the Domain Name. Finally, the fact that Respondent is using a privacy protection service to hide its identity may in the circumstances of this case further indicate bad faith.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) of 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 Domain Name <guardriskconsults.com> be transferred to the Complainant.

/Mathias Lilleengen/
Mathias Lilleengen
Sole Panelist
Date: June 24, 2022