

ADMINISTRATIVE PANEL DECISION

Govaerts Recycling v. Privacy Service Provided by Witheld for Privacy ehf /
Dale Worsfold
Case No. D2022-1678

1. The Parties

The Complainant is Govaerts Recycling, Belgium, represented by Gevers Legal NV, Belgium.

The Respondent is Privacy Service Provided by Witheld for Privacy ehf, Iceland / Dale Worsfold, United States of America.

2. The Domain Name and Registrar

The disputed Domain Name <govaplats.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 9, 2022. On May 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed Domain Name. On the same day, 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 May 12, 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 The Honourable Edward C. Chiasson Q.C. as the sole panelist in this matter on June 17, 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. The Decision due date was extended to July 5, 2022.

4. Factual Background

The Complainant is a Belgian company that has been operating in the recycling industry since 1995. It has invested in the protection of the commercial signs under which it is active on the market. Information about the Complainant, its activities and product range can be found at "<https://www.govaplast.com/>". The use of the term "govaplast" is apparent on the site.

The Complainant is the owner of a variety of trademark registrations, including – for example – the following:

- EU trademark registration No. 011139896 GOVAPLAST (word mark), filed on August 24, 2012, and registered on February 1, 2013, for goods in classes 17, 19, and 20.

- EU trademark registration No. 012735601 (figurative mark), filed on March 27, 2014, and registered on October 29, 2014, for goods in classes 17, 19, and 20.

Copies of extracts of the aforementioned EU trademark registrations were attached to the Complaint.

The disputed Domain Name was registered on February 23, 2021. It resolved to a pay-per-click website and fraudulent emails were being sent by the Respondent in which an employee of the Complainant was being impersonated.

5. Parties' Contentions

A. Complainant

The complainant asserts that the Domain Name is confusingly similar to its GOVAPLAST trademark and is nearly identical to it. The only difference is the addition of the letter "s" at the end of the word "govaplast".

The Complainant states that it is entitled to rely on a *prima facie* case that the Respondent does not have a legitimate interest in the Domain Name. The Respondent has used a privacy shield when registering the Domain Name. The contact details appearing in the Whois data for the Domain Name are of the company offering privacy shield services and not those of the Respondent.

The Respondent has not sought to register "govaplasts" as a trademark and does not use the term in connection with a *bona fide* offering of goods or services. It is not making a legitimate noncommercial or fair use of the Domain Name and has no connection with the Complainant.

The Respondent has been using the Domain Name to set up a fraudulent scheme by sending emails in which an employee of the Complainant is being impersonated. The fraudulent emails are detrimental to the Complainant's reputation and attempt fraudulently to obtain money from innocent recipients, all of whom have some commercial relationship with the Complainant.

The Domain Name is being used to host a so-called pay-per-click website. The Respondent is not only trying to obtain money by sending fraudulent emails, with fraudulent invoices, but, at the same time, is generating revenues from Internet users clicking on the pay-per-click links being displayed on the website linked with the Domain Name.

The Complainant relies on much of the conduct noted above as demonstrating that the Respondent registered and is using the Domain Name in 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 evidenced rights in the trademark GOVAPLAST.

It is clear that the Domain Name is confusingly similar to the Complainant's trademark. The only difference is the addition of the letter "s" at the end of the word "govaplast".

The Complainant has established Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

The Respondent has advanced no basis on which it has a legitimate interest in the Domain Name. Its use of the Domain Name belies such a contention. Taking advantage of the fact that the Domain Name is confusingly similar to the Complainant's trademark, the Respondent has attempted to obtain money using fraudulent invoices.

The Complaint also asserts that the Respondent's attempt to earn revenue by using pay-per-click links supports the contention that the Respondent is acting in bad faith and does not have a legitimate interest in the Domain Name.

The Panel concludes that the Complainant has established Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Using the confusingly similar Domain Name to attempt to obtain money through fraudulent invoices is clear evidence that the Respondent has registered and is using the Domain Name in bad faith.

Complainant has established Policy paragraph 4(a)(iii).

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

/The Honourable Edward C. Chiasson Q.C./
The Honourable Edward C. Chiasson Q.C.
Sole Panelist
Date: June 30, 2022