

## **ADMINISTRATIVE PANEL DECISION**

ZipRecruiter Inc. v. Privacy service provided by Withheld for Privacy ehf /  
Jeremy Gallego  
Case No. D2022-1854

### **1. The Parties**

The Complainant is ZipRecruiter Inc., United States of America (“United States”), represented by SafeNames Ltd., United Kingdom.

The Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / Jeremy Gallego, United States.

### **2. The Domain Name and Registrar**

The disputed domain name <ziprecruiter.vegas> 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 23, 2022. On May 23, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 23, 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 May 24, 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 25, 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 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 16, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 20, 2022.

The Center appointed Stefan Naumann as the sole panelist in this matter on June 24, 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 is an American company specialized in online recruitment that promotes and provides job search and recruitment services notably on its websites and on social media in the United States and in other countries.

The Complainant owns United States and European Union trademarks ZIPRECRUITER (numbers 3934310 and 015070873) registered respectively on March 22, 2011, and February 3, 2016, for products in classes 9, 36, 41, and 42, amongst others. The Complainant further owns the domain name <ziprecruiter.com> registered on February 23, 2010, and various country code Top Level Domains with the term “ziprecruiter”. The thorough evidence submitted by the Complainant fully establishes that these rights are in effect and owned by the Complainant.

The disputed domain name was registered on January 17, 2022. The Respondent, initially a privacy protection service provider, was disclosed as an individual, with an address in the United States.

In cases involving a privacy or proxy service and irrespective of the disclosure of any underlying registrant, the appointed panel retains discretion to determine the respondent against which the case should proceed. Depending on the facts and circumstances of a particular case, e.g., where a timely disclosure is made and there is no indication of a relationship beyond the provision of privacy or proxy registration services, a panel may find it appropriate to apply its discretion to record only the underlying registrant as the named respondent (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.4.5).

In the present case, disclosure of an underlying registrant occurred, and the record contains no indication of a relationship between the privacy protection service and the underlying registrant beyond the provision of privacy or proxy registration services. However, the Complainant’s representative sent the initial Respondent a cease-and-desist letter on January 26, 2022. This was not answered.

The Panel finds it appropriate that the case should proceed against both Respondents.

The Complainant indicates and provides evidence that the disputed domain name directs to a website with a pay-per-click page with links to third party websites with content related to employment and recruiting services.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant asserts that its ZIPRECRUITER marks are well known, that the Respondent has no permission from the Complainant to use the Complainant’s trademarks or apply for a domain name with the Complainant trademarks, that the Respondent does not have a right or legitimate interest with respect to the disputed domain name in connection with a *bona fide* offer of good and services, and that the Respondent registered and is using the disputed domain name in bad faith.

##### **B. Respondent**

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

## 6. Discussion and Findings

In order to succeed in its claim, the Complainant must demonstrate that all three elements listed in paragraph 4(a) of the Policy have been satisfied:

- (i) the disputed domain name must be identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent must have no rights or legitimate interests with respect to the disputed domain name; and
- (iii) the disputed domain name must have been registered and used in bad faith.

Paragraph 15(a) of the Rules provides that the Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable. Furthermore, paragraphs 10(b) and 10(d) of the Rules provide that the Panel shall ensure that the parties are treated with equality and shall determine the admissibility, relevance, materiality, and weight of the evidence.

Paragraph 14(b) of the Rules provides that if a party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under, the Rules, the Panel shall draw such inferences therefrom as it considers appropriate.

The Panel notes that in the present matter the Respondent did not reply to the Complainant's contentions.

While the Respondent's failure to respond does not automatically result in a decision in favor of the Complainant, the Panel is entitled to draw appropriate inferences therefrom, in accordance with paragraph 14(b) of the Rules (see [WIPO Overview 3.0](#), section 4.3).

With the foregoing provisions in mind, the Panel finds as follows:

### A. Identical or Confusingly Similar

The Complainant has established its trademark rights in the trademark ZIPRECRUITER, as described in section 4 above.

The disputed domain name is identical to the Complainant's trademark with the addition of ".vegas" as generic Top Level Domain ("gTLD").

In keeping with the consensus view among UDRP panels that a panel may undertake limited factual research into matters of public record if it deems this necessary to reach the right decision<sup>1</sup>, the Panel verified the gTLD. The online search showed that the ".vegas" gTLD aims to promote the city of Las Vegas, United States, and is dedicated to local economic actors, inhabitants, associations or any project related to the city.

Although the Complainant requests that the Panel should disregard the gTLD for the purpose of a determination of the first element of the UDRP, the Panel notes that the term "vegas" would ordinarily be understood by the public in the United States, where both Complainant and the underlying registrant are located, as indicating the city Las Vegas. This understanding is in keeping with the information available online about the ".vegas" gTLD.

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<sup>1</sup> *Sermo, Inc. v. CatalystMD, LLC*, WIPO Case No. [D2008-0647](#); *e-Duction, Inc. v. John Zuccarini, d/b/a The Cupcake Party & Cupcake Movies*, WIPO Case No. [D2000-1369](#); see also *Descente, Ltd. and Arena Distribution, S.A. v. Portsnportals Enterprises Limited*, WIPO Case No. [D2008-1768](#); *Latchways PLC v. Martin Peoples*, WIPO Case No. [D2010-1255](#); *Sensis Pty Ltd. Telstra Corporation Limited v. Yellow Page Marketing B.V.*, WIPO Case No. [D2011-0057](#).

The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain.

In the present case, the disputed domain name is identical to the Complainant's marks, which it combines with a gTLD that may be disregarded in assessing whether a domain name is identical or confusingly similar to a trademark, but that may be relevant to a determination of the other elements of the UDRP.

The Panel is satisfied that the disputed domain name is confusingly similar to the Complainant's trademarks for the purposes of the Policy.

## **B. Rights or Legitimate Interests**

The Panel finds that consumers may land on the website at the disputed domain name when searching for the Complainant's trademark ZIPRECRUITER or its website.

The Panel would ordinarily expect a legitimate business to provide information that allows it to be contacted. Here, however, the underlying registrant used a privacy protection service. Based on the evidence, the Respondent is not, in the view of the Panel, attempting to operate a business and is not himself offering any services or products, other than linking to third party websites related to or offering services in the same sector as that of the Complainant, after confusing Internet users who search for the term "ziprecruiter".

Prior panels have found that the use of a domain name to host a parked page comprising pay-per-click links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of a complainant's mark or otherwise mislead Internet users. Prior panels have however recognized that the use of a domain name to host a page comprising pay-per-click links may be permissible – and therefore consistent with respondent rights or legitimate interests under the UDRP – where a domain name consists of an actual dictionary word(s) or phrase and is used to host pay-per-click links genuinely related to the dictionary meaning of the word(s) or phrase comprising the domain name, and not to trade off the complainant's (or its competitor's) trademark (see [WIPO Overview 3.0](#), section 2.9).

Prior panels have also found that a domain name registrant will normally be deemed responsible for content appearing on a website at its domain name, even if such registrant may not be exercising direct control over such content - for example, in the case of advertising links appearing on an "automatically" generated basis. To the extent that the presence of certain advertising or links under such arrangement may constitute evidence of bad faith use of the relevant domain name, such presence would usually be attributed to the registrant unless it can show some good faith attempt toward preventing inclusion of advertising or links which profit from trading on third-party trademarks.

In the present case, the disputed domain name is identical to the Complainant's trademark and carries a high risk of implied affiliation notably in the United States and notably with the use of a gTLD that would be understood as a geographic indication in the United States, and thus does not, on the record before this Panel, constitute fair use (see [WIPO Overview 3.0](#), section 2.5.1).

The Respondent has chosen not to reply to the Complaint. The Panel finds that the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests, and finds no indication in the evidence that the Respondent claims or could claim rights or legitimate interests of his own in the term "ziprecruiter". Since the Respondent also has no permission from the Complainant, his use of the disputed domain name is without rights or legitimate interests.

For these reasons, the Panel considers that in the present case the Respondent does not have any rights or legitimate interests with respect to the disputed domain name.

### C. Registered and Used in Bad Faith

The Respondent's use of a webpage with links to third party websites with content related to employment and recruiting services that compete with those of the Complainant, may indicate that the Respondent registered and is using the disputed domain name in bad faith.

Particular circumstances panels may take into account in assessing whether the respondent's registration of a domain name is in bad faith include: (i) the nature of the domain name (e.g., a typo of a widely-known mark, or a domain name incorporating the complainant's mark plus an additional term such as a descriptive or geographic term, or one that corresponds to the complainant's area of activity or natural zone of expansion), (ii) the chosen top-level domain (e.g., particularly where corresponding to the complainant's area of business activity or natural zone of expansion), (iii) the content of any website to which the domain name directs, including any changes in such content and the timing thereof, (iv) the timing and circumstances of the registration (particularly following a product launch, or the complainant's failure to renew its domain name registration), (v) any respondent pattern of targeting marks along a range of factors, such as a common area of commerce, intended consumers, or geographic location, (vi) a clear absence of rights or legitimate interests coupled with no credible explanation for the respondent's choice of the domain name, or (viii) other indicia generally suggesting that the respondent had somehow targeted the complainant.

The Panel considers that a respondent may have a right to register and use a domain name to attract Internet traffic based on the appeal of commonly used descriptive or dictionary terms, in the absence of circumstances indicating that the respondent's aim in registering the disputed domain name was to profit from and exploit the complainant's trademark (See *Javier Narvaez Segura, Grupo Loading Systems S.L. v. Domain Admin, Mrs. Jello, LLC*, WIPO Case No. [D2016-1199](#); *Harvard Lampoon, Inc. v. Reflex Publishing Inc.*, WIPO Case No. [D2011-0716](#); *National Trust for Historic Preservation v. Barry Preston*, WIPO Case No. [D2005-0424](#)).

According to the Oxford online dictionary, one of the meanings of "zip" is "move at high speed". The term "recruiter" is a common English dictionary term. The combination of these two common dictionary words could thus be understood as high speed or fast recruiter.

Based on the significant evidence submitted by the Complainant, the Panel finds that in the present matter the combination of these two common terms and their intensive use by Complainant notably in the United States constitute circumstances indicating that the underlying Respondent's aim in registering the disputed domain name with the gTLD ".vegas" was to profit from and exploit the Complainant's trademark.

In the present matter, the record notably shows that:

- (i) the Respondent used a privacy protection service, and the Respondent is located in the United States,
- (ii) the Complainant's ZIPRECRUITER trademarks arguably have a reputation and are widely known, as evidenced by their significant use in the United States as well as in various other countries,
- (iii) the Respondent registered a domain name that is identical to the Complainant's trademarks and resolves to a webpage with links to third party websites with content and services related to and/or competing with the Complainant's activities in the employment and recruitment sector.

The underlying Respondent's failure to take part in the present proceedings and his use of a privacy protection service constitute additional circumstances supporting this conclusion.

In the present case, the Panel is thus persuaded that the overall circumstances of this case strongly suggest that the Respondent's registration and use of the Domain Name is in bad faith.

In light of these circumstances, the Panel concludes that the disputed domain name was registered and is 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 disputed domain name <ziprecruiter.vegas> be transferred to the Complainant.

*/Stefan Naumann/*

**Stefan Naumann**

Sole Panelist

Date: July 8, 2022