

ADMINISTRATIVE PANEL DECISION

Universal Services of America, LP d/b/a Allied Universal v. Mary Leon, Hjad
Case No. D2022-3009

1. The Parties

The Complainant is Universal Services of America, LP d/b/a Allied Universal, United States of America, represented by Cozen O'Connor, United States of America.

The Respondent is Mary Leon, Hjad, United States of America.

2. The Domain Name and Registrar

The disputed domain name <guardsmarkinc.com> is registered with DNC Holdings, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on August 15, 2022. On August 16, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 18, 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 August 19, 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 August 22, 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 August 23, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 12, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 16, 2022.

The Center appointed Kathryn Lee as the sole panelist in this matter on September 29, 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 one of the largest security and facilities services companies in the United States. It operates in around 90 countries and has 800,000 employees worldwide. In 2015, the Complainant acquired Guardsmark, LLC, a major U.S. security services company. The Complainant owns a number of trademark registrations for GUARDSMARK including the following in the United States: Registration Number 0808973 registered on May 24, 1966 and Registration Number 1811355 registered on December 14, 1993.

The Respondent appears to be an individual with an address in the United States.

The disputed domain name was registered on May 10, 2022 and resolves to a website displaying pornographic content.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's trademark. The Complainant asserts that the disputed domain name contains the GUARDSMARK trademark in its entirety and due to the prominent use of the mark, consumers are likely to believe that the disputed domain name is related to the Complainant. The Complainant also asserts that the additional term "inc" increases the likelihood of confusion since it is a generic descriptor for a corporation.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name and confirms that it has not authorized or licensed rights to the Respondent in any respect.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant contends that the Respondent registered the disputed domain name to trade off of the Complainant's goodwill in the GUARDSMARK trademark and to confuse consumers into believing that the Respondent's website is affiliated or associated with the Complainant. The Complainant also contends that the use of the disputed domain name to display pornographic content constitutes trademark tarnishment and harms not only consumers but the reputation of the Complainant and the Complainant's mark. The Complainant also asserts that the Respondent has opportunity to use the disputed domain name in fraudulent activities since the dispute domain consists of the Complainant's famous trademark and the generic term "inc" and therefore would appear to be associated with the Complainant to job seekers and consumers.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated with supporting evidence that it has rights to the trademark GUARDSMARK. As for the disputed domain name, it contains the GUARDSMARK mark in its entirety along with the term "inc." According to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.7, a domain name is considered confusingly similar to a trademark

if it “incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name”. In this regard, the GUARDSMARK mark is readily recognizable within the disputed domain name. The additional term “inc” does not prevent a finding of confusing similarity (see [WIPO Overview 3.0](#), section 1.8).

For the reasons mentioned above, the Panel finds that the first element has been established.

B. Rights or Legitimate Interests

On the basis of the present record as set out above, the Panel finds that the Complainant has made the required allegations to support a *prima facie* case showing that the Respondent has no rights or legitimate interests in the disputed domain name. Once such a *prima facie* case has been established, the burden of production shifts to the Respondent to demonstrate its rights or legitimate interests in the disputed domain name, with the burden of proof always remaining with the Complainant. However, the Respondent in this case has chosen to file no Response to these assertions by the Complainant, and there is no evidence or allegation in the record that would warrant a finding in favor of the Respondent on this point.

Besides, a respondent’s use of a domain name is not considered “fair” if it falsely suggests affiliation with the trademark owner. See [WIPO Overview 3.0](#), section 2.5.1. Here, the dominant element of the disputed domain name corresponds exactly to the Complainant’s mark, and the additional term “inc” suggests that the disputed domain name is the official domain name of the Complainant, and carries a risk of implied affiliation.

For the reasons provided above, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and that the second element has been established.

C. Registered and Used in Bad Faith

The Panel finds that there is strong and clear evidence to find bad faith in this case.

The disputed domain name is linked to a website showing sexually explicit content, not related to the Complainant in any way, and UDRP panels have consistently held that use of a confusingly similar domain name for a website with adult content is evidence of bad faith registration and use. See *Vivendi v. Guseva Svetlana*, WIPO Case No. [D2018-2631](#) and *Christian Dior Couture v. Paul Farley*, WIPO Case No. [D2008-0008](#).

Further, the panel can think of no reason for the Respondent to have registered the disputed domain name other than create a likelihood of confusion with the Complainant’s trademark for commercial gain.

For the reasons given above, the Panel finds that the third element has been established.

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

/Kathryn Lee/

Kathryn Lee

Sole Panelist

Date: October 17, 2022