

ADMINISTRATIVE PANEL DECISION

Blackbaud, Inc. v. DOMAIN ADMINISTRATOR, Buy this domain on Dan.com

Case No. D2022-3373

1. The Parties

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

Respondent is DOMAIN ADMINISTRATOR, Buy this domain on Dan.com ----, United States.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 9, 2022. On September 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 13, 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 Complainant on September 20, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on September 20, 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 Respondent of the Complaint, and the proceedings commenced on September 23, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 13, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on October 21, 2022.

The Center appointed Georges Nahitchevansky as the sole panelist in this matter on October 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

Complainant, Blackbaud Inc., is a provider of cloud software, data intelligence and related services and solutions for nonprofits, higher education institutions, schools, foundations and other organizations. In 2017 Complainant acquired Giving Limited, a United Kingdom private limited company, which owned and operated a digital fundraising platform under the name and mark JUSTGIVING. Since then, Complainant has continued the operation of the JUSTGIVING digital fundraising platform for online giving to charities and others promoting various social causes. The JUSTGIVING platform and services are promoted and provided through a website at “www.justgiving.com”.

Complainant, through its wholly owned affiliate JG US, Inc., owns a trademark registration for the JUSTGIVING mark in the United States in connection with its charitable fundraising and related services, which issued to registration on July 2, 2019 (Registration No. 5792260). Complainant also owns in the United States and intent-to-use application for the mark JUSTGIVING SITE BUILDER for various hosting and software services related to campaigning and fundraising for charities, non-profits, social enterprise and other fundraising organizations. That application was filed on May 27, 2022, and is currently pending (Application Serial No. 97432683).

Respondent registered the disputed domain name on May 30, 2022 and since then has only attempted to sell the disputed domain name through Dan.com, a domain name marketplace, for USD 995.

5. Parties' Contentions

A. Complainant

Complainant maintains that it owns rights in the JUSTGIVING mark by virtue of its JUSTGIVING trademark registration in the United States and through the use of the JUSTGIVING mark on the “www.justgiving.com” website.

Complainant asserts that the disputed domain name is confusingly similar to Complainant's JUSTGIVING trademark as it “consists of the whole” of the JUSTGIVING mark.

Complainant argues that Respondent has no rights or legitimate interests in the disputed domain name as Respondent (i) is not affiliated with or authorized by Complainant to register or use the JUSTGIVING mark, (ii) has not prepared for or made any *bona fide* use of the disputed domain name, but simply offered the disputed domain name for sale, and (iii) is not commonly known by the disputed domain name.

Lastly, Complainant contends that Respondent has registered and used the disputed domain name, which is confusingly similar to the JUSTGIVING mark, for purposes of disrupting Complainant's business operations and for purposes of simply flipping the disputed domain name for Respondent's profit.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) 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.

A. Identical or Confusingly Similar

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See section 1.2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). Complainant has provided evidence that it owns a trademark registration for the JUSTGIVING mark. As the first element is essentially a standing requirement, Complainant's trademark registration for JUSTGIVING satisfies this requirement.

With Complainant's rights in the JUSTGIVING mark established, the remaining question under the first element of the Policy is whether the disputed domain name (typically disregarding the generic Top-Level Domain such as ".com" in this case) is identical or confusingly similar with Complainant's mark. See *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#). Here, the Panel finds that the disputed domain name is confusingly similar to Complainant's JUSTGIVING mark as it fully and clearly incorporates the JUSTGIVING mark at the head of the disputed domain name followed by the descriptive words "site builder". The Panel therefore finds that Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the complainant must make at least a *prima facie* showing that the respondent possesses no rights or legitimate interests in a disputed domain name. See *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once the complainant makes such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

Here, the evidence before the Panel, which is quite limited and could be characterized as sparse, shows that Respondent has simply attempted to sell the disputed domain name for profit since registering the disputed domain name and for no other purpose. Given Respondent's failure to appear in this proceeding, and given that the disputed domain name was registered just three days after Complainant filed an application to register the JUSTGIVING SITE BUILDER mark, it seems more likely than not that Respondent is simply trying to make a quick sale of the disputed domain name which is likely to be seen by consumers as somehow connected to Complainant and its services.

Given that Complainant has established with sufficient evidence that it owns rights in the JUSTGIVING mark, and given Respondent's above noted actions and failure to substantively appear in this matter, the Panel concludes that Respondent does not have a right or legitimate interests in the disputed domain name and that none of the circumstances of Paragraph 4(c) of the Policy are evident in this case.

C. Registered and Used in Bad Faith

Given Respondent's actions as noted above, and Respondent's failure to appear to explain or credibly justify its actions in this matter, it is easy to infer that Respondent's registration and use of the disputed domain name has been done in bad faith and for purposes of making a quick profit by registering and quickly selling the disputed domain name. Indeed, Respondent's registration of the disputed domain name three days after Complainant filed a trademark application for JUSTGIVING SITE BUILDER seems rather suspect, particularly as Complainant already owned rights in the mark JUSTGIVING and had been operating its online fundraising platform under the name and mark JUSTGIVING since at least 2017. This is further heightened by the fact that Respondent has simply used the disputed domain name as a redirect to a domain name market place where the disputed domain name is offered for sale for USD 995. Simply put, the limited evidence before the Panel sufficiently supports a finding that Respondent registered and is using the disputed domain name opportunistically for Respondent's profit and not for some other purpose.

Accordingly, the Panel finds that Complainant succeeds under this element 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 disputed domain name <justgivingsitebuilder.com> be transferred to Complainant.

/Georges Nahitchevansky/

Georges Nahitchevansky

Sole Panelist

Date: November 14, 2022