

ADMINISTRATIVE PANEL DECISION

YPO, Inc. v. Jay Schlim, King Kali

Case No. D2022-3659

1. The Parties

Complainant is YPO, Inc., United States of America (“United States” or “U.S.”), represented by Brand Enforcement Team 101 Domain, United States.

Respondent is Jay Schlim, King Kali, United States.

2. The Domain Names and Registrars

The disputed domain names <ypolifetime.com> and <ypolifetime.org> (the “Domain Names”) are registered with PDR Ltd. d/b/a PublicDomainRegistry.com and Porkbun LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 1, 2022. On October 3, 2022, the Center transmitted by email to the Registrars requests for registrar verification in connection with each disputed domain name. On October 4, 2022, the Registrars transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on October 4, 2022, providing the registrants and contact information disclosed by the Registrars, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on October 6, 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 October 18, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 7, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on November 8, 2022.

The Center appointed John C. McElwaine as the sole panelist in this matter on November 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 by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

Complainant is a United States-based leadership community of global chief executives with the goal to improve lives, businesses, and the world.

Complainant owns a United States trademark registration, U.S. Reg. No. 2,172,537, for YPO, registered on July 14, 1998 for educational services in Class 41 and association services in Class 42.

The domain name <ypolifetime.com> was registered on June 29, 2022; and <ypolifetime.org was registered on June 14, 2022. At the time of filing the Complaint, the Domain Names did not resolve to active websites.

5. Parties' Contentions

A. Complainant

As background, Complainant asserts that it was founded in 1950 and has grown to be a global organization consisting of 30,000 members, spanning 142 countries, with a combined revenue of member-run companies of over 9 trillion dollars.

Complainant alleges that it registered the U.S. trademark for YPO on July 14, 1998 claiming a date of first use of 1984. Complainant claimed that its primary website, located at <ypo.org>, provides online information for current, prospective, and past members to access. In addition Complainant alleges that its membership portal, as well as general information about the organization's goals, requirements, and active members, are all directly rendered under Complainant's trademarked term "YPO". Complainant also contends that it has continually used the YPO trademark for over 30 years. Collectively, Complainant's registered and unregistered trademark rights are referred to herein as the "YPO Mark."

Complainant alleges it became aware of Respondent's registration of <ypolifetime.org> when Complainant's members contacted Complainant to report a fraudster was sending emails offering discounts on Complainant's membership dues to Complainant's community base using an email address with this domain name. Complainant claims that it promptly filed an abuse complaint with Porkbun, on June 28, 2022. Complainant asserts that after review of the complaint and evidence, the registrar confirmed the domain's suspension on June 29, 2022. That same day the domain name <ypolifetime.com> was registered with a different registrar, Public Domain Registry. Complainant asserts that it later became aware that the fraudulent user of the generic Top-level-Domain ("gTLD") ".org" domain name was now using the gTLD ".com" domain name. Complainant filed multiple abuse complaints with Public Domain Registry and hosting provider of <ypolifetime.com>, but no corrective action was taken. As a result, this proceeding became necessary.

With respect to the first element of the Policy, Complainant asserts that Domain Names are confusingly similar to Complainant's YPO Mark because they both contain the entirety of Complainant's trademark and direct consumers to websites that do not resolve.

With respect to the second element of the Policy, Complainant asserts that it has not licensed nor allowed Respondent to use the YPO Mark for any purpose. Complainant further asserts that Respondent is not commonly known by the Domain Names and registered the Domain Names primarily for the purpose of disrupting the business of Complainant. Complainant alleges that by registering a domain name confusingly similar to Complainant's well-known YPO Mark, and undertaking a fraudulent scheme with its use of the Domain Names, Respondent could not be making a *bona fide* offering of goods or services within the meaning of paragraph 4(c)(i) of the Policy.

With respect to the third element of the Policy, Complainant alleges that Respondent's use of the Domain Names to send emails seeking to defraud Complainant's members constitutes registration and use of the Domain Names in bad faith.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

As an initial procedural matter, the Registrars reported back two different registrant names of the Domain Names. Complainant contends, however, that the Domain Names have been registered and controlled by the same registrant despite the differing registrant names and contact data. Specifically, Complainant contends that support for this assertion can be found in the email correspondence attached as Annex 7. The email in Annex 7 purports to be from a YPO Membership Transition Specialist. In this email, the signature line in the email conversation reads "...@ypolifetime.org" on June 30, 2022, while the later email on July 7, 2022, shows "...@ypolifetime.com".

Additionally, Complainant submitted evidence that both registrant email addresses were fake. Specifically, Complainant asserted that the mailing address of one registrant is not a legitimate street address in Dry Creek Alaska, the phone number area codes do not correspond with either California or Alaska, but rather Oklahoma and Colorado, there were no relevant search results found for either email address, and when researching the individual's name and listed region, no relevant search results were returned for either identity.

Section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") summarizes the consensus view of UDRP panels on the consolidation of multiple respondents as follows: "Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario." Panels have considered a range of factors, typically present in some combination, as useful to determining whether such consolidation is appropriate, such as similarities in or relevant aspects of (i) the registrants' identity(ies) including pseudonyms, (ii) the registrants' contact information including email address(es), postal address(es), or phone number(s), including any pattern of irregularities, (iii) relevant IP addresses, name servers, or webhost(s), (iv) the content or layout of websites corresponding to the disputed domain names, (v) the nature of the marks at issue (e.g., where a registrant targets a specific sector), (vi) any naming patterns in the disputed domain names (e.g., <mark-country> or <mark-goods>), (vii) the relevant language/scripts of the disputed domain names particularly where they are the same as the mark(s) at issue, (viii) any changes by the respondent relating to any of the above items following communications regarding the disputed domain name(s), (ix) any evidence of respondent affiliation with respect to the ability to control the disputed domain name(s), (x) any (prior) pattern of similar respondent behavior, or (xi) other arguments made by the complainant and/or disclosures by the respondent(s).

Here, Complainant has established that the Domain Names were all registered within weeks of each other using contact information that was likely false: <ypolifetime.com> was registered on June 29, 2022; and <ypolifetime.org was registered on June 14, 2022. Moreover, and most important, the Domain Names were all involved in the same phishing scam. See e.g., *The Procter & Gamble Company, The Gillette Company LLC v. WhoisGuard Protected, WhoisGuard, Inc./ Benson Edges / Garry Kent*, WIPO Case No. [D2019-1976](#) (consolidation granted where disputed domain names were used in phishing scam); *Carrefour SA v. War IA and carrefourlove2*, WIPO Case No. [DPW2020-0005](#) (consolidation granted where disputed domain names were used to send phishing emails purporting to come from employees of complaint and the three disputed domain names used highly similar minor permutations of the complainant's trademark). Based upon the foregoing, the Panel finds that Complainant has provided sufficient evidence to support consolidation of the two registrants as Respondent in one proceeding and it would be fair and equitable to grant such request.

As stated above Respondent did not formally reply to the Complaint. However, paragraph 4 of the Policy requires that, in order to succeed in this UDRP proceeding, Complainant must still prove its assertions with evidence demonstrating:

- (i) each 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 Domain Names; and
- (iii) each Domain Name has been registered and is being used in bad faith.

Because of the absence of a formal Response, the Panel may accept as true the reasonable factual allegations stated within the Complaint and may draw appropriate inferences therefrom. See *St. Tropez Acquisition Co. Limited v. AnonymousSpeech LLC and Global House Inc.*, WIPO Case No. [D2009-1779](#); *Bjorn Kassoe Andersen v. Direction International*, WIPO Case No. [D2007-0605](#); see also paragraph 5(f) of the Rules (“If a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint”). Having considered the Complaint, the Policy, the Rules, the Supplemental Rules and applicable principles of law, the Panel’s findings on each of the above cited elements are as follows.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires Complainant show that the Domain Names are identical or confusingly similar to a trademark or service mark in which Complainant has rights. 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. [WIPO Overview 3.0](#), section 1.2. On this point, Complainant has provided evidence that it is the owner of a United States trademark registration for the YPO Mark.

It is well-established that the addition of other terms to a trademark in a domain name does not avoid a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8 (“Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.”); *Mastercard International Incorporated v. Dolancer Outsourcing Inc.*, WIPO Case No. [D2012-0619](#); *Air France v. Kitchkulture*, WIPO Case No. [D2002-0158](#); *DHL Operations B.V., and DHL International GmbH v. Diversified Home Loans*, WIPO Case No. [D2010-0097](#). Here both Domain Names contain Complainant’s YPO Mark in its entirety. The addition of the word “Lifetime”, which is a category of membership related to Respondent scam, does not avoid a finding of confusing similarity between the Domain Names and the YPO Mark.

Accordingly, the Panel finds that the Domain Names are confusingly similar to Complainant’s YPO Mark in which Complainant has valid trademark rights. Therefore, Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under the Policy, paragraph 4(a)(ii), Complainant has the burden of establishing that Respondent has no rights or legitimate interests in the Domain Names. Complainant needs to only make a *prima facie* showing on this element, at which point the burden of production shifts to Respondent to present evidence that it has rights or legitimate interests in the Domain Names. If Respondent has failed to do so, Complainant is deemed to have satisfied its burden under paragraph 4(a)(ii) of the Policy. See *Vicar Operating, Inc. v. Domains by Proxy, Inc. / Eklin Bot Systems, Inc.*, WIPO Case No. [D2010-1141](#); see also *Nicole Kidman v. John Zuccarini, d/b/a Cupcake Party*, WIPO Case No. [D2000-1415](#); *Inter-Continental Hotels Corporation v. Khaled Ali Soussi*, WIPO Case No. [D2000-0252](#).

The Policy, paragraph 4(c), provides a non-exhaustive list of circumstances in which a respondent could demonstrate rights or legitimate interests in a contested domain name:

- “(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

Complainant contends there is no right or legitimate interests in registering and using a domain name for the purpose of trading upon Complainant’s well-known trademark and perpetrating a fraudulent scheme to obtain thousands of dollars in membership fees. Complainant further contends that it has not authorized Respondent to register the Domain Names, that Respondent has not demonstrated any attempt to use the Domain Names in connection with a *bona fide* offering of goods or services, and that Respondent is not commonly known by the Domain Names.

Respondent has not denied any of Complainant’s assertions and has not put forth any evidence showing that they have a right or legitimate interest in the Domain Names. The Panel observes that the Domain Names have been used to send emails in an attempt to pose as a representative of Complainant for fraudulent purposes.

Moreover, the Panel finds that purpose of registering the Domain Names was to engage in an email scam or a phishing scheme, none of which is a *bona fide* offering of goods or services. [WIPO Overview 3.0](#), section 2.13.1 (“Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent.”); see also, *CMA CGM v. Diana Smith*, WIPO Case No. [D2015-1774](#) (finding that the respondent had no rights or legitimate interests in the disputed domain name, “such phishing scam cannot be considered a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use of the Domain Name”). The undisputed evidence of impersonation, deception and fraud nullifies any possible basis for the acquisition of rights or legitimate interests by Respondent. See *Afton Chemical Corporation v. Meche Kings*, WIPO Case No. [D2019-1082](#).

Accordingly, Complainant has made a *prima facie* showing of Respondent’s lack of any rights or legitimate interests and Respondent has failed to come forward to rebut that showing. As provided for by paragraph 14 of the Rules, the panel may draw such inference from Respondent’s default as it considers appropriate.

The Panel finds that Respondent does not have rights or legitimate interests in the Domain Names and that Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under paragraph 4(a)(iii) of the Policy, Complainant must show that Respondent registered and is using the Domain Names in bad faith. A non-exhaustive list of factors constituting bad faith registration and use is set out in paragraph 4(b) of the Policy.

Bad faith registration can be found where respondents “knew or should have known” of complainant’s trademark rights and nevertheless registered a domain name in which he had no right or legitimate interest. See *Accor v. Kristen Hoerl*, WIPO Case No. [D2007-1722](#). Based on Complainant’s submissions, which were not rebutted by Respondent, Respondent must have known of Complainant’s YPO Mark, when it decided to register the Domain Names. In fact, it is clear that Complainant’s YPO Mark was registered for the purpose

of misleading Complainant's members. In light of the email scam, there could be no other legitimate explanation except that Respondent intentionally registered the Domain Names to cloak their scam and deceive recipients into believing the emails were from Complainant. The Domain Names do not appear to have been registered for any other purpose as they were only used for this activity and never resolved to active websites that might otherwise legitimize Respondent's action. Such activity constitutes a disruption of Complainant's business and also establishes bad faith registration. *Securitas AB v. Whois Privacy Protection Service, Inc. / A. H.*, WIPO Case No. [D2013-0117](#) (finding bad faith based upon the similarity of the disputed domain name and the complainant's mark, the fact that the complainant is a well-known global security company and the fact that the disputed domain name is being used to perpetrate an email scam.)

In addition, the use of a deceptive domain name for an email scam has previously been found by UDRP panels to be sufficient to establish that a domain name is being used in bad faith. See *Samsung Electronics Co., Ltd. v. Albert Daniel Carter*, WIPO Case No. [D2010-1367](#). Here, Complainant provided evidence that Respondent used the Domain Names to send emails posing as a representative of Complainant with the apparent purpose of seeking to defraud Complainant's members by having them pay membership dues to Respondent. Such activity would constitute a disruption of Complainant's business and also establishes bad faith use of a domain name. *Securitas AB v. Whois Privacy Protection Service, Inc. / A. H.*, *supra* (finding bad faith based upon the similarity of the disputed domain name and the complainant's mark, the fact that the complainant is a well-known global security company and the fact that the disputed domain name is being used to perpetrate an email scam.)

Moreover, in finding a domain name used for an email scam was bad faith, the panel in *Kramer Law Firm, P.A. Attorneys and Counselors at Law v. BOA Online, Mark Heuvel*, WIPO Case No. [D2016-0387](#), pointed out that numerous UDRP panels have found such impersonation to constitute bad faith, even if the relevant domain names are used only for email. See, e.g., *Terex Corporation v. Williams Sid, Partners Associate*, WIPO Case No. [D2014-1742](#) ("Respondent was using the disputed domain name in conjunction with [...] an email address for sending scam invitations of employment with Complainant"); and *Olayan Investments Company v. Anthono Maka, Alahaji, Koko, Direct investment future company, ofer bahar*, WIPO Case No. [D2011-0128](#) ("although the disputed domain names have not been used in connection with active web sites, they have been used in email addresses to send scam emails and to solicit a reply to an 'online location'").

Based upon the foregoing, the Panel finds that Complainant has met its burden of showing that Respondent registered and is using the Domain Names 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 Domain Names, <ypolifetime.com> and <ypolifetime.org>, be transferred to Complainant.

/John C McElwaine/

John C McElwaine

Sole Panelist

Date: November 28, 2022