

ADMINISTRATIVE PANEL DECISION

Agfa-Gevaert N.V. v. Mike James

Case No. D2022-4071

1. The Parties

The Complainant is Agfa-Gevaert N.V., Belgium, represented by Novagraaf Belgium NV/SA, Belgium.

The Respondent is Mike James, United Arab Emirates.

2. The Domain Name and Registrar

The disputed domain name <agfahospitaldubai.com> (the “Domain Name”) is registered with OwnRegistrar, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 28, 2022. On October 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 29, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details for the Domain Name.

The Center verified that the 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 November 3, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 23, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 25, 2022.

The Center appointed Ian Lowe as the sole panelist in this matter on December 1, 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 a company based in Belgium, a member of the Agfa-Gevaert Group (“the Group”). According to the corporate website at “www.agfa.com”, its predecessor companies were established over 150 years ago. The Group produces and distributes an extensive range of analog and digital imaging systems and IT solutions, mainly for the printing industry and the healthcare sector.

The Complainant is the proprietor of a number of trademark registrations in respect of AGFA, including European Union trademarks number 3353463 AGFA registered on January 24, 2005 and number 11649803 AGFA registered on August 7, 2013.

The Domain Name was registered on September 30, 2022. It resolves to a website purporting to feature Agfa Hospital Dubai (the “Website”). However, an Internet search discloses that the address given for the hospital is that of Agfa HealthCare Middle East FZ LLC, a regional sales and service office of Agfa Healthcare, a division of the Complainant. The Careers page of the Website solicits applicants for a career at the hospital. According to the information disclosed by the Registrar, the contact email address for the Respondent is “hr.**@gmail.com”.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its AGFA trademark, that the Respondent has no rights or legitimate interests in respect of the Domain Name, and that the Respondent registered and is using the Domain Name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

B. Respondent

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

6. Discussion and Findings

For this Complaint to succeed in relation to the Domain Name the Complainant must prove that;

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has uncontested rights in its AGFA trademark (the “Mark”) both by virtue of its trademark registrations and its widespread use of the Mark over many years. Ignoring the generic Top-Level Domain (“gTLD”) “.com”, the Domain Name comprises the distinctive AGFA mark together with the terms “hospital” and “dubai”. In the view of the Panel, the additional terms, comprising a dictionary word and a geographic term, do not prevent a finding of confusing similarity between the Domain Name and the Mark.

Accordingly, the Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has made out a strong *prima facie* case that the Respondent could have no rights or legitimate interests in respect of the Domain Name. The Domain Name has been used for a website purporting to be that of a hospital in Dubai, United Arab Emirates, yet the address given for the hospital on the website is an office address of an associate company of the Complainant. There is no suggestion that the Respondent has any connection with an entity legitimately incorporating the Mark. In the Panel's view, given the suspicious nature of the Website at the Domain Name, the Domain Name is very likely to have been registered to deceive Internet users into believing that it had been registered by or operated on behalf of the Complainant.

The Respondent has chosen not to respond to the Complaint, to explain its registration or use of the Domain Name, or to take any other steps to counter the *prima facie* case established by the Complainant. In the circumstances, the Panel finds that the Respondent does not have any rights or legitimate interests in respect of the Domain Name.

C. Registered and Used in Bad Faith

Since the Domain Name incorporates the well-known Mark, and the website at the Domain Name falsely gives a contact address that is in fact the office address of an associate company of the Complainant, the Panel is in no doubt that the Respondent had the Complainant and its rights in the Mark in mind when it registered the Domain Name. As set out above, the only possible inference is that the Respondent registered the Domain Name with a view to taking unfair advantage of the Complainant's rights in the Mark and to confuse Internet users into believing that the Domain Name was being operated by or authorized by the Complainant, no doubt for commercial gain. In that regard, the Panel notes the solicitation of job applications on the Website and the inclusion of the letters "hr", a common abbreviation for the term "human resources" in the Respondent's contact email address.

Accordingly, the Panel finds that the Domain Name was registered and is being 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 Domain Name <agfahospitaldubai.com> be transferred to the Complainant.

/Ian Lowe/

Ian Lowe

Sole Panelist

Date: December 12, 2022