

ADMINISTRATIVE PANEL DECISION

Sentara Healthcare v. Domain Administrator, Sugarcane Internet Nigeria Limited

Case No. D2023-0745

1. The Parties

The Complainant is Sentara Healthcare, United States of America (“United States” or “US”), represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States.

The Respondent is Domain Administrator, Sugarcane Internet Nigeria Limited, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <sentaramedicalrecords.com> is registered with Cosmotown, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 20, 2023. On February 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 21, 2023, 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 (Undisclosed) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 23, 2023 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 amendment to the Complaint on February 26, 2023.

The Center verified that the Complaint together with the amendment to 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 February 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 22, 2023.

The Center appointed Christian Gassauer-Fleissner as the sole panelist in this matter on March 27, 2023. 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 not-for-profit health care organization that operates in the Mid-Atlantic and Southeast regions of the United States. The Complainant has 30,000 employees, 12 hospitals in Virginia and Northeastern North Carolina, and the Sentara Health Plans division which serves more than 1.2 million members in Virginia and Florida.

The Complainant is the owner of the trademark SENTARA ("SENTARA trademark"), including:

- US Registration SENTARA No. 2,388,447, registered on September 19, 2000;
- US Registration SENTARA No. 4,332,264, registered on May 7, 2013;
- US Registration SENTARA No. 4,132,528, registered on April 24, 2012;
- US Registration SENTARA No. 4,230,434, registered on October 23, 2012; and
- US Registration SENTARA No. 4,230,435, registered on October 23, 2012.

The Complainant is also owner of the domain name <sentara.com> including the SENTARA trademark, which was registered on April 18, 1994.

The disputed domain name was registered on December 20, 2022. The Complainant has provided evidence showing that it resolved to a parking page containing commercial Pay-Per-Click ("PPC") links in relation with the Complainant's activities.

5. Parties' Contentions

A. Complainant

The arguments put forward by the Complainant can be summarized as follows:

On the first element of the Policy, the Complainant claims that the disputed domain name is confusingly similar to the Complainant's SENTARA trademark. The disputed domain name includes the entire SENTARA trademark, with the mere addition of the descriptive term "medicalrecords" and the generic Top-Level Domain ("gTLD") ".com". The inclusion of descriptive term, such as "medicalrecords", does not distinguish the disputed domain name from the SENTARA trademark.

On the second element of the Policy, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the SENTARA trademark in any manner. By using the disputed domain name in connection with a PPC page that includes links for services related to the SENTARA trademark, including "Patient Electronic Health Records" "Electronic Health Records" and "St Jude Hospital Donate", the Respondent has failed to create a *bona fide* offering of goods or services and therefore the Respondent cannot demonstrate rights or legitimate interests. Further, to the Complainant's knowledge, the Respondent has never been commonly known by the disputed domain name and has never acquired any trademark or service mark rights in the disputed domain name.

On the third element of the Policy, the Complainant asserts that the Respondent registered and used the disputed domain name in bad faith. Since the SENTARA trademark is famous and/or widely known, given that it is protected by at least 25 trademark registrations, the oldest of which was used more than 24 years

ago and registered more than 22 years ago, the Respondent must have known about the Complainant's rights at the time of registering the disputed domain name. In light of the long history of the Complainant's trademarks and the Complainant's significant presence and brand recognition, it is likely that the Respondent knew of the Complainant's mark, and has sought to obtain a commercial benefit by attracting Internet users based on that confusion. The Respondent's actions suggest bad faith because the disputed domain name is obviously connected with the Complainant and the SENTARA trademark. Further, panels have repeatedly held that using a domain name in connection with a monetized parking page under the circumstances present constitutes bad faith. Bad faith exists even if the Respondent should argue that it was unaware of the monetized parking page associated with the disputed domain name. Moreover, the Respondent has established MX records for the disputed domain name, which enables it to use the disputed domain name to send and receive email and is further evidence of bad faith because it gives rise to the strong possibility that the Respondent intended or intends to use the disputed domain name to send emails as part of a fraudulent phishing scheme.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules requires that the Panel's decision be made "on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

It has been a consensus view in previous UDRP decisions that a respondent's default (*i.e.*, failure to submit a response) would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true (see section 4.3 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the Complaint, namely that:

- (i) the disputed 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant, under the first requirement of paragraph 4(a)(i) of the Policy, needs to establish that the disputed domain name is identical or confusingly similar to a trademark or a service mark in which it has rights.

The Complainant is registered as the owner of several trademarks containing the term "SENTARA". Suitable evidence was submitted. Consequently, the Panel finds that the Complainant has proven that it has rights in the SENTARA trademark.

The disputed domain name contains the SENTARA trademark entirely with the addition of the term "medicalrecords" and the gTLD ".com". Section 1.8 of [WIPO Overview 3.0](#) states: "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. The nature of such additional term(s) may however bear on assessment of the second and

third elements.” Further, section 1.11.1 of [WIPO Overview 3.0](#) states: “The applicable TLD in a domain name (e.g., ‘.com’, ‘.club’, ‘.nyc’) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.” The gTLD “.com” will therefore be discounted in the Panel’s consideration of confusing similarity. The Panel finds that the relevant trademark SENTARA within the disputed domain name is recognizable, so that the additional elements do not prevent a finding of confusing similarity.

For the reasons above, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademarks, and that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The second element the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Regarding the second element of the Policy, section 2.1 of [WIPO Overview 3.0](#), states, “where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element”.

The Complainant has not authorized the Respondent to use the Complainant’s trademark, the Respondent is not commonly known by the disputed domain name, and the Respondent has not used the disputed domain name for a legitimate noncommercial or fair use, nor used it in connection with a *bona fide* offering of goods or services. Further, the Respondent has not attempted to justify why the disputed domain name was registered.

In addition, the Panel finds that the disputed domain name carries a risk of implied affiliation with the Complainant, which cannot constitute fair use (see [WIPO Overview 3.0](#), section 2.5.1).

Moreover, the Respondent has used the confusingly similar disputed domain name to resolve to a website with PPC links that relate to or capitalize on the Complainant’s reputation and trademark, which does not amount to a *bona fide* offering of goods or services (see [WIPO Overview 3.0](#), section 2.9).

Accordingly, the Panel finds that the Complainant has made a *prima facie* showing of the Respondent’s lack of rights or legitimate interests in respect of the disputed domain name, which has not been rebutted by the Respondent.

The Panel therefore finds that the Complainant has established the second element of the Policy in accordance with paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The third element of paragraph 4(a) of the Policy requires that the Complainant demonstrate that the Respondent registered or is using the disputed domain name in bad faith. Section 3.1 of [WIPO Overview 3.0](#) states, “bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark”. Section 3.2.2 of the [WIPO Overview 3.0](#) reads: “Knew or should have known: Noting the near instantaneous and global reach of the Internet and search engines and particularly in circumstances where the complainant’s mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known that its registration would be identical or confusingly similar to a complainant’s mark. Further factors including the nature of the domain name, the chosen top-level

domain, any use of the domain name, or any respondent pattern, may obviate a respondent's claim not to have been aware of the complainant's mark."

Considering the reputation and public presence of the Complainant, it is unlikely that the respondent had no knowledge of the SENTARA trademark. The Panel finds that the word "sentara" within the disputed domain name suggests, wrongly, that there is a connection between the Respondent and the Complainant. Consideration of the term "medicalrecords" highlights a confusing similarity with the SENTARA trademark because it implies an indication of medical or health care services offered under the SENTARA trademark. Further, from the point of view of the reputation of the SENTARA trademark, a possibility of a commercial, *bona fide* use of the website to be retrieved under the disputed domain name does not appear plausible. In fact, the Complainant provided evidence showing that the disputed domain resolved to a parking page containing commercial PPC links, which may be related to the Complainant's activities. In light of the lack of any rights to or legitimate interests in the disputed domain name of the Respondent and in the absence of any conceivable good faith use, the Panel finds from the present circumstances that the Respondent has intentionally attempted to attract for commercial gain Internet users to its website or affect the commercial activities of the Complainant by creating a likelihood of confusion with the Complainant's trademarks.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(iii) 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 <sentaramedicalrecords.com> be transferred to the Complainant.

/Christian Gassauer-Fleissner/
Christian Gassauer-Fleissner
Sole Panelist
Date: April 10, 2023