

ADMINISTRATIVE PANEL DECISION

Sentara Healthcare v. mike morgan
Case No. D2023-0783

1. The Parties

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

The Respondent is mike morgan, United States.

2. The Domain Name and Registrar

The disputed domain name, <sentaracareers.works>, is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 21, 2023. On February 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 22, 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 (Redacted for Privacy / Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 26, 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 21, 2023.

The Center appointed Dennis A. Foster as the sole panelist in this matter on April 5, 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 nonprofit health care company that is one of the largest in the Mid-Atlantic and Southeast regions of the United States.

The Complainant is the registrant of the domain name <sentara.com>, which was created on April 18, 1994. The Complainant uses the domain name in connection with its primary website. The Complainant owns many United States Patent and Trademark Office (“USPTO”) registered service marks for its SENTARA health care business, such as No. 2,388,447 registered on September 19, 2000, and No. 4,332,264 registered on May 7, 2013.

The disputed domain name was registered on November 7, 2022. The Respondent uses the disputed domain name in connection with a pay-per-click (“PPC”) website or monetized parking page that includes links to health care service providers comparable to the Complainant.

5. Parties’ Contentions

A. Complainant

- The disputed domain name contains the SENTARA trademark in its entirety and thus is confusingly similar to that trademark. Adding the descriptive term “careers” merely increases the confusing similarity because the Complainant’s own website offers much information about careers in the Complainant’s health services company.
- The Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has never assigned, licensed or in any way authorized the Respondent to register or use the SENTARA trademark in any manner. The Respondent is not using the disputed domain name for a *bona fide* offering of goods and services, but is instead using it to generate revenue by duping Internet visitors into believing the Respondent is affiliated with the Complainant.
- The disputed domain name was registered and is being used by the Respondent in bad faith. The Complainant is well known in the United States in the health care field, and the Respondent had this in mind when he chose the disputed domain name. The Respondent is using the domain name to drive Internet traffic to websites that compete with the Complainant, and to generate PPC revenue. The Respondent may also be using the website at the disputed domain name to exchange messages with site visitors in hopes of “phishing” personal information from them.
- The Respondent is in bad faith because he is a serial cyber squatter.
- The disputed domain name should be transferred from the Respondent to the Complainant.

B. Respondent

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

6. Discussion and Findings

In order for the Complainant to prevail in this proceeding and obtain a transfer of the disputed domain name according to the Policy, paragraphs 4(a)(i-iii), the Complainant must prove that:

- the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- the Respondent has no rights or legitimate interests in the disputed domain name; and
- the Respondent has registered and is using the disputed domain name in bad faith.

A. Identical or Confusingly Similar

As cited above, the Complainant has provided numerous examples of its SENTARA service mark registrations. These mark registrations for health services are conclusive evidence that the Complainant has rights in the disputed domain name. As set forth in WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7: “[I]n cases where a domain name incorporates the entirety of a trademark... the domain name will normally be considered confusingly similar to that mark.”

The Respondent has added the term “careers” to the Complainant’s SENTARA trademark in the disputed domain name. However, the addition of the term “careers” does not prevent a finding of confusing similarity under the first element. See [WIPO Overview 3.0](#), section 1.8.

As is now well-settled beyond cavil, the generic Top-Level Domain (“gTLD”) “.works” should not be taken into consideration when assessing identical or confusing similarity under the Policy. See [WIPO Overview 3.0](#), section 1.11.1.

Clearly, then, the disputed domain name is confusingly similar to the Complainant’s SENTARA trademark, and the Complainant thus prevails under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant asserts that it has never assigned or licensed or in any way authorized the Respondent to use the SENTARA service mark in any manner. It therefore is incumbent on the Respondent to come forward and rebut the Complainant’s assertions if the Respondent wishes to do so.

In this proceeding, the Respondent has not filed a response. Nonetheless, in the interests of fairness per the Rules at paragraph 10(b), the Panel will examine the record to see whether there might be grounds for the Respondent to have rights or legitimate interests in the disputed domain name. In doing so, as is now well-established under the Policy, the Panel will accept as true all reasonable and substantiated contentions of the Complainant.

The Respondent has failed to create a *bona fide* offering of goods or services under the Policy and therefore the Respondent cannot demonstrate rights or legitimate interests under Paragraph 4(c)(i) of the Policy. As the Panel will deal with more fully in the Bad Faith section below, the Respondent’s PPC website with links to other health care websites that compete with the Complainant cannot be considered to be in *bona fide*. (See *MBI, Inc. v. Moniker Privacy Services/Nevis Domains LLC*, WIPO Case No. [D2006-0550](#): “the operation of commercial link services of this type, designed to lure Internet users and divert them to other commercial sites by the use of domain names identical or similar to a complainant’s trademark, do not confer a legitimate right to or interest in a domain name.”)

Nothing in the record shows that the Respondent has ever been commonly known by the disputed domain name, and therefore the Respondent cannot establish rights or legitimate interests pursuant to paragraph 4(c)(ii) of the Policy.

Furthermore, the Respondent’s PPC monetized parking page website is clearly commercial, and therefore the Respondent cannot establish rights or legitimate interests pursuant to paragraph 4(c)(iii) of the Policy either.

Hence, the Panel finds that the Complainant has carried its burden of proof to show that the Respondent does not have rights or legitimate interests in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that the Respondent registered the disputed domain name while well aware it was the service mark of the Complainant, given the Complainant's established notoriety in the United States, where the Respondent is reportedly located. Further to [WIPO Overview 3.0](#), section 3.1.4, prior “[p]anels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith”. The Respondent then set up a website at the disputed domain name that uses the Complainant's reputation in the health care sector to attract Internet users to this website and then link them to other websites that offer services that compete with the Complainant's. The Respondent presumably derives PPC revenue from this activity. This is in clear violation of the bad faith provision at paragraph 4(b)(iv) of the Policy: “by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion in the complainant's mark as to the source, sponsorship, affiliation or endorsement of your web site or location or a product or service on your web site or location.”

The Panel also notes that the Complainant has produced credible evidence that the Respondent is a serial cyber squatter who has been the losing respondent in a number of other Policy proceedings involving notable trademarks. This falls under the non-exhaustive bad faith grounds in paragraph 4(b)(iv) of the Policy. (See *e.g.*, *MasterCard International Incorporated v. Mike Morgan*, WIPO Case No. [D2010-0935](#)).

The Panel finds that the Complainant has proved that the Respondent has registered and is using the disputed domain name in bad faith, and has thus satisfied its burden of proof under the Policy at paragraph 4(a)(iii).

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, <sentaracareers.works>, be transferred to the Complainant.

/Dennis A. Foster/

Dennis A. Foster

Sole Panelist

Date: April 19, 2023