

ADMINISTRATIVE PANEL DECISION

Early Warning Services, LLC v. Emkomart Enterprise Case No. D2023-0985

1. The Parties

Complainant is Early Warning Services, LLC, United States of America (“United States”), represented internally.

Respondent is Emkomart Enterprise, United States.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 3, 2023. On March 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 13, 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 privacy service named in the Complaint (Privacy service provided by Withheld for Privacy ehf). The Center sent an email communication to Complainant on March 21, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on April 3, 2023.

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 April 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 24, 2023. Respondent sent an informal communication to the Center on March 24, 2023. Respondent did not submit a formal response to the Complaint. Accordingly, the Center notified the parties that it would proceed to panel appointment on April 25, 2023.

The Center appointed Lorelei Ritchie as the sole panelist in this matter on April 28, 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

Complainant, together with its licensees, operates a global digital payment network. Since at least 2017, Complainant has provided these services under the mark ZELLE, including via the Complainant's website at the domain name associated with <zellepay.com>. Complainant owns several registered trademarks for its ZELLE mark, including in the United States where Complainant is based and where Respondent lists an address of record. These registrations include, among others, United States Registration No. 5277307 (registered August 29, 2017).

The disputed domain name was registered on July 18, 2022. Respondent has used the URL associated with the disputed domain name to resolve to a webpage that purports to offer trading of cryptocurrency under the heading "Zelle Tec". The website provides what appears to be a false address for Respondent and it encourages consumers to provide sensitive personal and financial information. Complainant has not authorized any activities by Respondent, nor any use of its trademarks thereby.

5. Parties' Contentions

A. Complainant

Complainant contends that the (i) disputed domain name is identical or confusingly similar to Complainant's trademarks; (ii) Respondent has no rights or legitimate interests in the disputed domain name; and (iii) Respondent registered and is using the disputed domain name in bad faith.

In particular, Complainant contends that its ZELLE mark is "well-known, and its ZELLE® services are used by more than 1,700 financial institutions and by millions of users". Complainant contends that the disputed domain name merely adds the term "tec" which would likely be perceived by consumers as descriptive of Complainant's "technology service". Complainant asserts that Respondent has no rights or legitimate interest in the registration or use of the disputed domain name. Rather, Complainant contends that Respondent has acted in bad faith in setting up a website meant to confuse prospective consumers of Complainant, and to obtain their sensitive personal and financial information, presumably for Respondent's own commercial gain.

B. Respondent

As noted above, Respondent did not reply to Complainant's contentions. Respondent submitted an informal communication to the Center on March 24, 2023, stating as follows: "I still do not understand the meaning of this mail."

6. Discussion and Findings

A. Identical or Confusingly Similar

This Panel must first determine whether the disputed domain name <zelletec.com> is identical or confusingly similar to a trademark or service mark in which Complainant has rights in accordance with paragraph 4(a)(i) of

the Policy. The Panel finds that it is. The disputed domain name directly incorporates Complainant's registered ZELLE mark, with only the addition of "tec".

Numerous UDRP panels have agreed that where the relevant trademark is recognizable within the disputed domain name, the addition of words or letters does not prevent a finding of "identical or confusingly similar" for purposes of satisfying this first prong of paragraph 4(a)(i) of the Policy. See, for example, *Inter Ikea Systems B.V. v. Polanski*, WIPO Case No. [D2000-1614](#) (transferring <ikeausa.com>); *General Electric Company v. Recruiters*, WIPO Case No. [D2007-0584](#) (transferring <ge-recruiting.com>); *Microsoft Corporation v. Step-Web*, WIPO Case No. [D2000-1500](#) (transferring <microsofthome.com>); *CBS Broadcasting, Inc. v. Y2K Concepts Corp.*, WIPO Case No. [D2000-1065](#) (transferring <cbsone.com>).

The Panel therefore finds that the disputed domain name is identical or confusingly similar to a trademark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Policy provides some guidance to respondents on how to demonstrate rights or legitimate interests in the domain name at issue in a UDRP dispute. For example, paragraph 4(c) of the Policy gives examples that might show rights or legitimate interests in a domain name. These examples include: (i) use of the domain name "in connection with a *bona fide* offering of goods or services"; (ii) demonstration that Respondent has been "commonly known by the domain name"; or (iii) "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".

Respondent has not alleged or otherwise provided any information that would support a finding that Respondent has rights or legitimate interests in the disputed domain name. Accordingly, the Panel finds that Complainant has made a *prima facie* showing of Respondent's lack of rights or legitimate interest in the disputed domain name, which Respondent has not rebutted.

C. Registered and Used in Bad Faith

There are several ways that a complainant can demonstrate that a domain name was registered and used in bad faith. For example, paragraph 4(b)(iv) of the Policy states that bad faith can be shown where "by using the domain name [respondent has] intentionally attempted to attract, for commercial gain, Internet users to [respondent's] web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [respondent's] website or location or of a product or service on [the] web site or location". As noted in Section 4 of this Panel's decision, Respondent has used the URL associated with the disputed domain name to resolve to a webpage that purports to offer trading of cryptocurrency under "Zelle Tec". The website provides what appears to be a false address for Respondent and it encourages consumers to provide sensitive personal and financial information. Respondent is thus trading on the goodwill of Complainant's ZELLE mark to attract Internet users, presumably for Respondent's own commercial gain. See *Early Warning Services, LLC v. Contact Privacy Inc. Customer 1242726540 / andy bang, amer group inc*, WIPO Case No. [D2020-2572](#) (transferring <zellepay.app>); *Early Warning Services, LLC v. Vinay Shan*, WIPO Case No. [D2020-0809](#) (transferring <zellpay.com>); *Early Warning Services, LLC v. Tianxing Zhou*, WIPO Case No. [D2019-1716](#) (transferring <zellecodepay.com>; <zellemo.com>; <zellerwards.com>).

The Panel finds that Respondent registered and used the disputed domain name in bad faith for purposes of paragraph 4(a)(iii) of the Policy.

7. Decision

For all 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 <zelletec.com> be transferred to Complainant.

/Lorelei Ritchie/

Lorelei Ritchie

Sole Panelist

Dated: May 4, 2023