

ADMINISTRATIVE PANEL DECISION

Greystar Worldwide, LLC v. Domain Sales – (Expired domain caught by auction winner) c/o Dynadot

Case No. D2023-1103

1. The Parties

Complainant is Greystar Worldwide, LLC, United States of America (“United States” or “US”), represented by CSC Digital Brand Services Group AB, Sweden.

Respondent is Domain Sales – (Expired domain caught by auction winner) c/o Dynadot, United States.

2. The Domain Names and Registrar

The disputed domain names, <accoladebygreystar.com>, <bellamybygreystar.com>, and <lttbodygreystar.com>, are registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 13, 2023. On March 13, 16, and 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On 14, 20, and 22, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint.

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 Respondent of the Complaint, and the proceedings commenced on March 29, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 18, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on April 21, 2023.

The Center appointed Scott R. Austin 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

The following facts appear from the Complaint and its attached Annexes, which have not been contested by Respondent, and which provide evidence sufficient to support the following:

- 1) Founded in 1993, Complainant asserts that it is a leading, fully integrated real estate company offering expertise in investment management, development, and management of rental housing properties globally which provides its products and services under the trademark GREYSTAR (the "GREYSTAR Mark").
- 2) Headquartered in Charleston, South Carolina, US, Complainant shows that it operates around the world in Asia-Pacific markets, Europe, South American and North America. In the United States alone Complainant has more than 745,000 units + beds under management and sponsors 299 rental housing projects with USD 23.5 billion in assets under management. Worldwide, Complainant's Investment Management Services operates more than USD 240 Billion of real estate in 130 markets with more than USD 60 billion in assets under management.
- 3) The GREYSTAR Mark is protected by Complainant as a registered trademark in numerous countries worldwide for its real estate management and development services, and registrations in the United States of record with the United States Patent and Trademark Office ("USPTO"), including:
 - International Registration No. 1212486, for GREYSTAR, registered on December 5, 2013, for services in International Classes 36 and 37, designating several jurisdictions;
 - United States Registration No. 4,563,984 for GREYSTAR, registered on July 8, 2014, for a range of real estate investment and development services in International Classes 36 and 37; and
 - United Kingdom Registration No. 801212486 for GREYSTAR, registered on June 19, 2015, for a range of real estate investment and development services in International Classes 36 and 37.

In addition to the foregoing registrations, beginning in April 2022, Complainant filed and has pending the following applications for United States trademark registration with the USPTO:

- United States Application Ser. No. 97/362,702 for BELLAMY BY GREYSTAR, filed on an-intent-to-use basis under Section 1B on April 14, 2022, for a range of real estate business and real estate investment services in International Classes 35 and 36;
 - United States Application Ser. No. 97/431,698 for LTD BY GREYSTAR, filed on an-intent-to-use basis under Section 1B on May 27, 2022, for a range of real estate investment services in International Class 36;
 - United States Application Ser. No. 97/ 634,792 for ACCOLADE BY GREYSTAR, filed on an-intent-to-use basis under Section 1B on October 17, 2022, for a range of real estate rental and temporary housing services in International Classes 36 and 43.
- 4) Complainant is the holder of more than 380 total domain names consisting of or including the GREYSTAR Mark, including its primary domain name <greystar.com>, which Complainant has used continuously since September 3, 1998 to access its official website (the "Official GREYSTAR Mark Website"). Complainant asserts that between September 2022 and November 2022, the Official GREYSTAR Mark Website received an average of 371,800 visits per month.
 - 5) Respondent registered the disputed domain names on, respectively: April 18, 2022, for <bellamybygreystar.com>; May 31, 2022, for <lttbodygreystar.com>; and October 20, 2022, for <accoladebygreystar.com>, each of which registration dates occurs only a few days after Complainant filed its United States Trademark applications for the mark incorporated into the corresponding domain

name: BELLAMY BY GREYSTAR filed April 14, 2022; LTD BY GREYSTAR, filed May 27, 2022; and ACCOLADE BY GREYSTAR, filed October 17, 2022. At the time of filing the Complaint, each of the disputed domain names redirected Internet users to websites where Respondent has listed each disputed domain name incorporating the GREYSTAR Mark offered for sale in amounts that appear to far exceed Respondent's out-of-pocket expenses in registering the disputed domain names.

5. Parties' Contentions

A. Complainant

Complainant contends that the disputed domain names are confusingly similar to Complainant's trademark; that Respondent has no rights or legitimate interests in respect of the disputed domain names; and that the disputed domain names were registered and are being used in bad faith.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

In view of Respondent's failure to submit any Response, the Panel shall decide this administrative proceeding on the basis of Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable, and supported, allegations and inferences set forth in the Complaint as true, unless the evidence is clearly contradictory.

Where no substantive Response is filed, however, Complainant must still make out its case in all respects under paragraph 4(a) of the Policy. To succeed, Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied.

The Panel will address its findings on each of these requirements in more detail below.

The standard of proof under the Policy is often expressed as the "balance of the probabilities" or "preponderance of the evidence" standard. Under this standard, an asserting party needs to establish that it is more likely than not that the claimed fact is true. See, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.2.

A. Identical or Confusingly Similar

Ownership of a nationally registered trademark constitutes *prima facie* evidence that the complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

Complainant claims registered trademark rights in the GREYSTAR Mark for its real estate investment and management services dating back to 2013. Sufficient evidence has been submitted in the form of electronic copies of valid and subsisting national and international trademark registration documents in the name of Complainant referenced in Section 4. Complainant has demonstrated, therefore, that it has rights in the GREYSTAR Mark required under the Policy. See *Horten Advokatpartnerselskab v. Domain ID Shield Service CO., Limited / Krutikov Valeriy Nikolaevich et al.*, WIPO Case No. [D2016-0205](#); see also *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#).

Complainant's extensive and detailed evidence submitted in the Complaint and its Annexes relating to each disputed domain name shows that all 4 of the disputed domain names clearly and prominently encompass Complainant's GREYSTAR Mark in full. Complainant contends therefore, that the GREYSTAR Mark

remains fully recognizable in each of the disputed domain names and is confusingly similar to Complainant's GREYSTAR Mark. Complainant also contends that Respondent's selection of the specific terms appended to its GREYSTAR Mark, which relate to properties it owns or the management aspects of Complainant's business is also enhances a determination of confusing similarity, but the Panel considers these facts more appropriate for consideration under the second and third elements of the Policy.

Prior UDRP panels have held that a domain name which wholly incorporates a complainant's registered mark is sufficient to establish identity or confusing similarity for purposes of the Policy despite the addition of other terms to such marks. [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") see also *Meta Platforms, Inc. et al. v. Abuz Hamal et al.*, WIPO Case No. [D2022-0212](#). Further, the addition of a generic Top-Level Domain "is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test". [WIPO Overview 3.0](#), Section 1.11.1.

Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under the second element of the Policy, a complainant is first required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. If a complainant makes that showing, the burden of production on this element shifts to the respondent to come forward with relevant evidence of such rights or legitimate interests in the domain name. If the respondent fails to come forward with such evidence, a complainant is generally deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1. See also, *Compagnie Generale des Matieres Nucleaires v. Greenpeace International*, WIPO Case No. [D2001-0376](#); and *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#).

Complainant has established, *prima facie*, that Respondent lacks rights or legitimate interests in each of the disputed domain names. First, Complainant submits that Respondent is not sponsored by or affiliated with Complainant in any way, is not licensed, or otherwise authorized by Complainant to use the GREYSTAR Mark in any manner or to register any of the disputed domain names, nor has Complainant in any way or manner associated with or entered into any legal relationship with Respondent. Prior UDRP panels have held "[i]n the absence of any license or permission from Complainant to use its trademark, no actual or contemplated *bona fide* or legitimate use of the Disputed Domain Name could reasonably be claimed". *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#); see also *Cartier International A. G. v. Blogger Pty Ltd, Publishing Australia*, WIPO Case No. [DAU2013-0037](#).

Second, Complainant contends and provides persuasive Whois registration data evidence in the Annexes to its Complaint that Respondent is not commonly known by the disputed domain names, which evinces a lack of rights or legitimate interests under Policy paragraph 4(c)(ii). The only Whois information provided by the involved Registrar, Dynadot, LLC, after repeated requests from the Center, identifies the Registrant as "Domain Sales – (Expired domain caught by auction winner) c/o Dynadot PO Box 701", which bears no resemblance to the disputed domain names in any manner, nor to the GREYSTAR Mark. Prior UDRP panels have held that where no evidence suggests a respondent is commonly known by the disputed domain names, then respondent cannot be regarded as having acquired rights to or legitimate interests in the disputed domain names within the meaning of paragraph 4(c)(ii) of the Policy. See *Moncler S.p.A. v. Bestinfo*, WIPO Case No. [D2004-1049](#).

The Panel notes Respondent's name which casts some doubts as to Respondent's identity or time of acquisition of the disputed domain name. See *Scan Global Logistics A/S v. Domain Sales - (Expired domain caught by auction winner) c/o Dynadot*, WIPO Case No. [D2022-4937](#): "The Panel has taken note of the Respondent's "name" (also confirmed by the Registrar) which on a superficial level gives an indication that the disputed domain names were purchased in an auction after their expiration; given that the domain names were only registered (as is also confirmed by their creation date) in 2021 and 2022 respectively, this

appears to be a naming convention of the Respondent (albeit a seemingly misleading one) and is not any indication of the actual registration status of the domain names”; cf. *NETANY S.A.v. Domain Sales - (Expired domain caught by auction winner) c/o Dynadot*, WIPO Case No. [D2022-5029](#) (raising concerns over why Registrar had not disclosed the underlying registrant of the Domain Name); see also *Akiem Holding v. Domain Sales - (Expired domain caught by auction winner) c/o Dynadot*, WIPO Case No. [D2023-0188](#) (“The Panel cannot dismiss the possibility of the actual registrant providing the name ‘Domain Sales - (Expired domain caught by auction winner) c/o Dynadot’ at the time of the registration of the disputed domain name”). In this regard, this Panel notes the Registrar’s reply to the Center stating that “The information we provided in our verification response is the contact information provided by the registrant and we’re taking steps to ensure it is corrected”.

The Panel accepts Complainant’s contentions that Respondent is not commonly known by the disputed domain names and that Respondent has never been authorized by Complainant to use Complainant’s GREYSTAR Mark. The Panel is therefore satisfied that Complainant has provided sufficient *prima facie* evidence that Respondent has no rights or legitimate interests in the disputed domain names.

Complainant next contends that Respondent lacks rights or legitimate interests in the respective disputed domain names because Respondent has failed to make use of the disputed domain names for websites and has not demonstrated any attempt to make legitimate use of the disputed domain names. Instead, Respondent is using the disputed domain names only to redirect Internet users to “parked” websites affiliated with the Registrar, where Respondent has offered the disputed domain names for sale in amounts that far exceed Respondent’s out-of-pocket expenses in registering the disputed domain names which Complainant contends serves as further evidence of Respondent’s lack of rights and legitimate interests.

Prior UDRP panels have consistently held that where a respondent’s only use of a disputed domain name is an offer to sell and the disputed domain name is clearly referring to a distinctive trademark and not a common word, such “use” cannot be considered as evidence of rights or legitimate interests in the disputed domain name. See *Spirig Pharma AG v. Whois privacy services, provided by DomainProtect / Alexander Zinovjev*, WIPO Case No. [D2014-1612](#).

Finally, Complainant next contends the fact that Respondent has sought to sell the disputed domain names for a substantial sum and registered each of the disputed domain names only three to four days after Complainant’s US applications were filed for the respective marks further suggests a scheme to derive unfair advantage from Complainant. The Panel notes that the record of evidence submitted in the Annexes to the Complaint shows that each of the disputed domain names resolves to the auction site dan.com and is listed for USD 4,995 each.

It defies all reason to believe that this series of registrations by Respondent was mere coincidence.

Given Respondent’s pattern of domain name registration that occurred within three to four days after Complainant filed its intent to use US trademark application for the respective mark in which Respondent embedded in the corresponding disputed domain name, it seems clear that Respondent acted on that specific and actual knowledge by registering each disputed domain name based on the trademarks identified by Complainant in its filed applications. This activity appears to have been precipitated not to use the disputed domain names legitimately in connection with Respondent’s own legitimate interest in offering goods or services, but to specifically interfere with Complainant’s business by preemptively registering domain names matching trademarks that Complainant was adopting.

Under strikingly similar circumstances as in the present case, and involving a highly similarly named Respondent, prior UDRP panels have found no rights or legitimate interests in a disputed domain name where the respondent registered a domain name identical to complainant’s mark only three days after complainant filed a trademark application. In *Volkswagen Group of America, Inc. v. Super Privacy Service Ltd. c/o Dynadot*, WIPO Case No. [D2019-2521](#), the panel held the complainant had satisfied the second element of the Policy where Respondent had registered the disputed domain name <drivebigger.com> only three days after the complainant had filed its intent-to-use application for the mark DRIVE BIGGER and then

offered it for sale for USD 10,000 via “dan.com”. Under those circumstances, the panel found the evidence before it suggested “that Respondent’s intent was to capitalize on Complainant’s nascent trademark rights in DRIVE BIGGER”. Based on those findings the panel went on to hold “given Respondent’s above noted actions and failure to appear, the Panel concludes that Respondent does not have a right or legitimate interest in the disputed domain name and that none of the circumstances of paragraph 4(c) of the Policy are evident in this case”. *Volkswagen Group of America, Inc. v. Super Privacy Service Ltd. c/o Dynadot, supra*. The Panel here finds the previous panel’s reasoning persuasive, especially given such similar operative facts evidencing a reprise of previous domain name abuse by possibly the same Respondent.

On balance, we believe that Complainant has met its burden in showing that it is more likely than not that Respondent registered each disputed domain name to opportunistically disrupt Complainant’s commercial activities and benefit commercially from their sale to Complainant or a competitor, based on Respondent’s actual knowledge that these were intent to use trademarks, Complainant was in the initial stages of adopting, and not for any legitimate *bona fide* offering of goods or services.

Complainant has presented a *prima facie* case showing that Respondent does not have rights or legitimate interests in the disputed domain names. The Panel notes that Respondent has not submitted a Response in this proceeding, much less provided the Panel with any evidence set forth in paragraph 4(c) of the Policy from which the Panel might conclude Respondent has rights or legitimate interests in the respective disputed domain names. As such, Respondent has failed to rebut Complainant’s *prima facie* case.

The Panel finds, therefore, that Complainant has successfully met its burden and that the Complaint succeeds under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Whether a domain name is registered and used in bad faith for purposes of the Policy may be determined by evaluating four (non-exhaustive) factors set forth in the Policy, paragraph 4(b):

- (i) circumstances indicating that the registrant has registered or the registrant has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registrations to complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the registrant’s documented out-of-pocket costs directly related to the domain name; or
- (ii) the registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in corresponding domain name, provided that the registrant has engaged in a pattern of such conduct; or
- (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the disputed domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet users to the registrant’s website or other online location, by creating a likelihood of confusion with complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the registrant’s website or location or of a product or service on the registrant’s website or location.

The Panel finds that Respondent has registered and used the disputed domain names in bad faith for at least the following reasons.

First, based on the facts set forth in section 6.B above, it is more likely than not that Respondent knew of and targeted Complainant’s GREYSTAR Mark, and Respondent should be found to have registered and used the disputed domain names in bad faith. See *Tudor Games, Inc. v. Domain Hostmaster, Customer ID No.*

09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc., WIPO Case No. [D2014-1754](#).

The Panel finds that Respondent's registration of the disputed domain names with awareness of Complainant and the GREYSTAR Mark, and in the absence of its own rights or legitimate interests, amounts to registration in bad faith by Respondent. See *Royds Withy King LLP v. Help Tobuy*, WIPO Case No. [D2019-0624](#).

Complainant also contends that the disputed domain names can only be taken as intending to cause confusion among Internet users as to the source of the disputed domain names, and thus, the disputed domain names must be considered as having been registered and used in bad faith pursuant to Policy 4(b)(iv), with no good faith use possible. Given that Respondent registered the disputed domain names within three to four days after Complainant filed a trademark application to register each of the three GREYSTAR Marks and did so with a pattern of three separate instances of such abuse against Complainant, the disputed domain names are each confusingly similar to Complainant's registered GREYSTAR Mark, and identical to Complainant's filed BELLAMY BY GREYSTAR, ACCOLADE BY GREYSTAR and LTD BY GREYSTAR marks, there is no plausible good-faith reason or logic for Respondent to have registered the disputed domain names. The Panel finds it appears more likely than not that Respondent was aware of Complainant's adoption of the three filed marks based on the GREYSTAR Mark and sought to opportunistically capitalize on Complainant's nascent trademark rights, constituting registration and use in bad faith. See [WIPO Overview 3.0](#) at section 3.8.2. See also *OLX, B.V. Kumud, G. / Whois Agent, Whois Privacy Protection Service, Inc.*, WIPO Case No. [D2015-0218](#).

In addition, given the above record and considering all of the circumstances, the Panel considers it reasonable to conclude Respondent target Complainant's GREYSTAR Mark in its conduct amounts to bad faith registration and use of the disputed domain names. As described above, the disputed domain names resolve to a web page at "www.dan.com" that offers them for sale at USD 4,995 each. There can be little question that intentional targeting of Complainant's marks by Respondent is present where, as here, in as little as three days after Complainant filed its application for each of the three GREYSTAR Mark combinations in the filed trademark applications, Respondent registered the same three marks as domain names incorporating each. Under these circumstances, the Panel agrees with prior panels and finds the disputed domain names have been registered and used in bad faith.

Respondent has had multiple opportunities to explain and justify how Respondent came to register the disputed domain names but has failed to do so. Indeed, the fact that Respondent has chosen to completely conceal its identity and has elected not to appear in this proceeding underscores that Respondent likely has no valid explanation for Respondent's actions, which to this Panel appears on the evidence submitted to have been undertaken in bad faith. See *Volkswagen Group of America, Inc. v. Super Privacy Service Ltd. c/o Dynadot, supra*.

The Panel finds Complainant's arguments and evidence persuasive and no arguments or evidence submitted by Respondent to the contrary. Considering all the circumstances, the Panel concludes that Respondent has registered and used the disputed domain names in bad faith and Complainant has satisfied 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 names, <accoladebygreystar.com>, <bellamybygreystar.com>, and <ltbbygreystar.com>, be transferred to Complainant.

/Scott R. Austin/

Scott R. Austin

Sole Panelist

Date: May 20, 2023