

ADMINISTRATIVE PANEL DECISION

Sigma Defense Systems LLC v. Name Redacted Case No. D2023-1626

1. The Parties

Complainant is Sigma Defense Systems LLC, United States of America ("United States" or "US"), represented by Morrison & Foerster, LLP, United States.

Respondent is Name Redacted.

2. The Domain Names and Registrar

The disputed domain names <sigmadefencejobs.com> and <sigmadefensejobs.com> are registered with Google LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 14, 2023. On April 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On April 14, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for each disputed domain names which differed from the named Respondent (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to Complainant on April 18, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed a first amended Complaint on April 29, 2023, and a second amended Complaint on May 4, 2023 adding the domain name <sigmadefensesystems.com> to the proceeding. On May 9, 2023, Complainant requested to remove the domain name <sigmadefensesystems.com> from the proceeding.

The Center verified that the Complaint together with the amended Complaints 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 May 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 30, 2023. On May 16, 2023, the Center received an email from a third party stating: "I received a written notice regarding the case number above but no email of a complaint nor

evidence of a complaint. What domain is this in regards to? Please include the icann information as I would also like to know where my address was obtained". On June 5, 2023, the Center received an email from the same third party stating: "That's bizarre, [Name Redacted] is not affiliated with that domain at all nor has ever owned a similar domain. I believe the registrar information must have been spoofed." Respondent did not submit any response. The Center notified the commencement of Panel appointment process on June 2, 2023.

The Center appointed Phillip V. Marano as the sole panelist in this matter on June 12, 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 is a technology company and systems integrator serving the US Department of Defense by providing systems and services for surveillance and reconnaissance. Complainant offers information about its services through its official <sigmadefense.com> domain name and website. Complainant asserts common law trademark rights over the SIGMA DEFENSE trademark in the United States, with the earliest priority dating back to 2006.

Respondent registered the disputed domain names on January 27, 2023 and February 6, 2023 respectively. At the time this Complaint was filed, the disputed domain names did not resolve to any active websites.

5. Parties' Contentions

A. Complainant

Complainant asserts common law rights to the SIGMA DEFENSE trademark in the US, and has adduced supporting evidence of its continuous use since 2006, annual sales, nationwide public recognition, and unsolicited media attention. The disputed domain names are confusingly similar to Complainant's SIGMA DEFENSE trademark, according to Complainant, because it is incorporated in its entirety in the <sigmadefensejobs.com> domain name and because the <sigmadefencejobs.com> domain name merely swaps the letters "s" for "c". Further according to Complainant, the addition of the word "jobs" in the disputed domain names is an obvious attempt to pass as somehow related to Complainant.

Complainant further asserts that Respondent lacks any rights or legitimate interests in the disputed domain names based on: the lack of any authorization or license between Complainant and Respondent; the lack of any evidence that Respondent is known by the disputed domain names; and Respondent's use of the disputed domain names in connection with phishing emails and LinkedIn messages to potential job applicants purporting to be a recruiter for Complainant.

Complainant argues that Respondent has registered and used the disputed domain names in bad faith for numerous reasons, including: the well-known nature of Complainant's SIGMA DEFENSE trademark; Respondent's registration and use of the disputed domain names in connection with phishing emails and LinkedIn messages to potential job applicants purporting to be a recruiter for Complainant; and Respondent's use of false domain name registration data.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

To succeed in its Complaint, Complainant must establish in accordance with paragraph 4(a) of the Policy:

- i. the disputed domain names are identical or confusingly similar to a trademark in which Complainant has rights;
- ii. Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- iii. the disputed domain names have been registered and are being used in bad faith.

Identity Theft – Name Redacted

Respondent is Name Redacted.¹

Consolidation of Multiple Respondents

Paragraph 10(e) of the UDRP Rules grants a panel the power to consolidate multiple domain name disputes. At the same time, paragraph 3(c) of the UDRP Rules provides that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder. Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), sections 4.11 and 4.11.2.

Panels have considered a range of factors, typically present in some combination, as useful to determining whether such consolidation is appropriate, such as similarities in or relevant aspects of (i) the registrants' identity(ies) including pseudonyms, (ii) the registrants' contact information including email address(es), postal address(es), or phone number(s), including any pattern of irregularities, (iii) relevant IP addresses, name servers, or webhost(s), (iv) the content or layout of websites corresponding to the disputed domain names, (v) the nature of the marks at issue (e.g., where a registrant targets a specific sector), (vi) any naming patterns in the disputed domain names (e.g., <mark-country> or <mark-goods>), (vii) the relevant language/scripts of the disputed domain names particularly where they are the same as the mark(s) at issue, (viii) any changes by the respondent relating to any of the above items following communications regarding the disputed domain name(s), (ix) any evidence of respondent affiliation with respect to the ability to control the disputed domain name(s), (x) any (prior) pattern of similar respondent behavior, or (xi) other arguments made by the complainant and/or disclosures by the respondent(s). *Id.* See also *Facebook, Inc., Instagram, LLC, WhatsApp Inc., Facebook Technologies, LLC v. Jurgen Neeme, hello@thedomain.io and Jay Neeme*, WIPO Case No. [D2019-1582](#).

In this case, the Panel also concurs that consolidation of Complainant's multiple domain name disputes is appropriate because all evidence supports the conclusion that the same Respondent is responsible for all of the disputed domain names. Specifically, evidence provided by Complainant establishes that: (i) Respondent used the disputed domain names as part of the identical email and LinkedIn phishing scheme; (ii) Respondent perpetrated that phishing scheme through nearly identical email addresses and pseudonyms; (iii) neither of the disputed domain names resolve to any website content; (iv) both disputed

¹ Complainant acknowledges and the Panel agrees that Respondent appears to have used the name and contact details of third parties when registering the disputed domain names. In light of the potential identity theft, the Panel has redacted Respondent's name from this Decision. However, the Panel has attached as Annex 1 to this Decision an instruction to the Registrar regarding transfer of the disputed domain names, which includes the name of Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this Decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

domain names were registered through the same Registrar; and (v) Respondent used false domain name registration data impersonating two unrelated third party individuals.

A. Identical or Confusingly Similar

To establish unregistered or common law trademark rights for purposes of the Policy, Complainant must show that its mark has become a distinctive identifier which consumers associate with Complainant's goods and/or services. Specific evidence demonstrating such acquired distinctiveness is required, rather than mere conclusory assertions of common law trademark ownership. Such evidence includes: (i) the duration and nature of use of the mark; (ii) the amount of sales under the mark; (iii) the nature and extent of advertising using the mark; (iv) the degree of actual consumer, public and media recognition; and (v) consumer surveys. In addition, the fact that a respondent has clearly targeted a complainant and their trademark can also support a finding of acquired distinctiveness and common law trademark rights for purposes of the Policy. [WIPO Overview 3.0](#), Section 1.3. See e.g. *Roper Industries, Inc. v. VistaPrint Technologies Ltd.* WIPO Case No. [D2014-1828](#) (Accepting unregistered trademarks for the purpose of the Policy where *inter alia* "[t]he disputed domain name is a close typo-variant of the Complainant's trademark", was "used as the return email address in fraudulent correspondence sent to Complainant, seeking to dupe the Complainant into sending money to a stated bank account", and "Respondent failed to respond to the Complainant" cease and desist correspondence or the complaint).

In its Complaint, Complainant proffered a sworn declaration from its Chief Operating Officer and further evidence that: (i) Complainant has used the SIGMA DEFENSE trademark in commerce continuously since 2006; (ii) Complainant has received increasing annual sales ranging from tens to hundreds of millions of dollars from 2018 through 2022; and (iii) Complainant has received unsolicited nationwide media attention for the services it provides to the US Department of Defense, as best demonstrated through articles in publications like *Security Journal Americas* and *AP News*. Furthermore, based on evidence provided by Complainant demonstrating Respondent's illicit email and LinkedIn phishing scheme, it is abundantly clear that Complainant was intentionally selected and targeted by Respondent. Accordingly, the Panel finds that Complainant has established sufficient common law trademark rights for purposes of the Policy.

The only remaining question under the first element of the Policy is whether the disputed domain names are identical or confusingly similar to Complainant's SIGMA DEFENSE trademark.

In this Complaint, the disputed domain names are confusingly similar to Complainant's SIGMA DEFENSE trademark because, disregarding the .com generic Top-Level Domain ("gTLD"), the entirety of the trademark is effectively contained within each disputed domain name. [WIPO Overview 3.0](#), section 1.7. ("This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the domain name ... [I]n cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar..."). With regard to gTLDs, such as .com in the disputed domain names, they are generally viewed as a standard registration requirement and are disregarded under the first element. [WIPO Overview 3.0](#), section 1.11.

Furthermore, it is well established that domain names which consist of common, obvious or intentional misspellings of trademarks are considered to be confusingly similar for the purposes of the first element of the Policy. [WIPO Overview 3.0](#), section 1.9 ("Examples of such typos include (i) adjacent keyboard letters, (ii) substitution of similar-appearing characters ... (iii) the use of different letters that appear similar in different fonts, (iv) the use of non-Latin internationalized or accented characters, (v) the inversion of letters and numbers, or (vi) the addition or interspersion of other terms or numbers"). See e.g. *Edmunds.com, Inc. v. Digi Real Estate Foundation*, WIPO Case No. [D2006-1043](#) ("This is clearly a 'typosquatting' case where the disputed domain name is a slight misspelling of a registered trademark to divert internet traffic ... In fact, the domain name comprises the Complainant's trademark ... with a single misspelling of an element of the mark: a double consonant 's' at the end.") See e.g. *General Electric Company v. mr domains (Marcelo Ratafia)* Case No. [D2000-0594](#) ("In the Panel's opinion 'www-' used in this context is a generic term which does nothing to reduce the potential for confusion, and therefore the panel is of the opinion that the Domain

Names are for all intents and purposes identical to the registered trademark.”) In this Complaint, Respondent has clearly substituted the letter “c” for the letter “s” in the disputed domain name <sigmadefencejobs.com> as an intentional typographical variant in furtherance of Respondent’s illicit phishing scheme.

And finally, the combination with the term “jobs” does not prevent a finding of confusing similarity between Complainant’s SIGMA DEFENSE and the disputed domain names. [WIPO Overview 3.0](#), section 1.8 (Additional terms “whether descriptive, geographic, pejorative, meaningless, or otherwise” do not prevent a finding of confusing similarity under the first element); see also *AT&T Corp. v. WorldclassMedia.com*, WIPO Case No. [D2000-0553](#) (“Each of the domain names in dispute comprises a portion identical to [the ATT trademark] in which the Complainant has rights, together with a portion comprising a geographic qualifier, which is insufficient to prevent the composite domain name from being confusingly similar to Complainant’s [ATT trademark]”). Rather, the addition of the word “jobs” clearly adds to the confusing similarity as Respondent intended as part of its illicit phishing scheme to impersonate a recruiter for Complainant. See *e.g. Accenture Global Services Ltd. v. Contact Privacy Inc. Sutomer 1245862228 et al.*, WIPO Case No. [D2019-3211](#) (Complainant’s mark ACCENTURE was the dominant portion of accenturecareer.info and “the element ‘career’ may even add to the confusing similarity, since it is likely that Internet users are looking for information related to job and career opportunities at the Complainant”).

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Complainant must make out a *prima facie* case that Respondent lacks rights or legitimate interests in the disputed domain names, shifting the burden of production on this element to Respondent to come forward with evidence demonstrating such rights or legitimate interests. Where, as in this Complaint, Respondent fails to come forward with any relevant evidence, Complainant is deemed to have satisfied the second element of the Policy. [WIPO Overview 3.0](#), section 2.1.

UDRP panels have categorically held that use of a domain name for illegal activity—including the impersonation of the complainant and other types of fraud—can never confer rights or legitimate interests on a respondent. Circumstantial evidence can support a credible claim made by Complainant asserting Respondent is engaged in such illegal activity, including that Respondent has masked its identity to avoid being contactable, or that Respondent’s website has been suspended by its hosting provider. [WIPO Overview 3.0](#), section 2.13. See *e.g. Graybar Services Inc. v. Graybar Elec, Grayberinc Lawrence*, WIPO Case No. [D2009-1017](#) (“Respondent has used the domain name to pretend that it is the Complainant and in particular to create false emails pretending that they are genuine emails coming from the Complainant and one of its senior executives”); see also *The Commissioners for HM Revenue and Customs v. Name Redacted*, WIPO Case No. [D2017-0501](#) (“In addition, the disputed domain names ... have had their web hosting suspended as a result of fraudulent activities. This is evidence of bad faith registration and use of the disputed domain names”). In its Complaint, Complainant has submitted persuasive evidence to establish Respondent’s registration and use of the disputed domain names in connection with phishing emails and LinkedIn messages to potential job applicants purporting to be a recruiter for Complainant. Such evidence includes *inter alia* copies of multiple reports from prospective job applicants alerting Complainant to identical fraudulent emails.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy proscribes the following non-exhaustive circumstances as evidence of bad faith registration and use of each of the disputed domain names:

- i. Circumstances indicating that Respondent has registered or Respondent has acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed

domain name registration to Complainant who is the owner of the trademark to a competitor of that Complainant, for valuable consideration in excess of Respondent's documented out of pocket costs directly related to the disputed domain name; or

- ii. Respondent has registered the disputed domain name in order to prevent the owner of the trademark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- iii. Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- iv. By using the disputed domain name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent'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 Respondent's website or location or of a product or service on Respondent's website or location.

Wrongful use of others' trademarks to extort information or funds from unsuspecting and unwary people, by using the disputed domain names for phishing activity, is considered abusive registration of the disputed domain names under the Policy. See *CareerBuilder, LLC v. Stephen Baker*, WIPO Case No. [D2005-0251](#); *The Boots Company, PLC v. The programmer adviser*, WIPO Case No. [D2009-1383](#). See e.g. *WSI Holdings Ltd. v. WSI House*, Case No. [D2004-1089](#) ("Respondent appears to be engaged in "phishing" for mistaken potential employees of the Complainant ... Respondent (1) has adopted a confusingly similar domain name, (2) it has used the trade dress of the Complainant's website, and (3) it has sought to attract users to its site by creating confusion between its site and the Complainant's. It has clearly engaged in activity which fulfils the bad faith requirements of Paragraph 4(b)(iv) of the Policy.") See e.g. *Go Daddy Operating Company, LLC v. Wu Yanmei*, WIPO Case No. [D2015-0177](#) (emails sent by the respondent from domain names using the complainant's trademark in an attempt to obtain complainant's customer information was held to be use of the disputed domain name for a phishing scheme and consequently bad faith under the Policy); *AB Electrolux v. Piotr Pardo*, WIPO Case No. [D2017-0368](#) (engaging in fraudulent email phishing activities through unauthorized use of a trademark for obtaining data or deriving information is construed as bad faith under the Policy). As discussed above, Complainant has proffered evidence to establish Respondent's registration and use of the disputed domain names in connection with phishing emails and LinkedIn messages to potential job applicants purporting to be a recruiter for Complainant.

Furthermore, the act of "typosquatting" or registering a domain name that is a common misspelling of a mark in which a party has rights has often been recognized as evidence of bad faith registration *per se*. [WIPO Overview 3.0](#), section 3.2.1 ("Particular circumstances UDRP panels take into account in assessing whether the respondent's registration of a domain name is in bad faith include: (i) the nature of the domain name (e.g., a typo of a widely known mark ..."). See also *Paragon Gifts, Inc. v. Domain.Contact*, WIPO Case No. [D2004-0107](#) (citing *National Association of Professional Baseball Leagues, d/b/a Minor League Baseball v. Zuccarini*, WIPO Case No. [D2002-1011](#)); *ESPN, Inc. v. XC2*, WIPO Case No. [D2005-0444](#) (finding that the practice of "typosquatting", of itself, is evidence of the bad faith registration of a domain name). The Panel concurs with this approach. It is evident that Respondent registered and used the typographical disputed domain name <sigmadefencejobs.com> to intentionally impersonate recruiters for Complainant in furtherance of its illicit phishing scheme.

And finally, Respondent also evidently registered the disputed domain names using the identity of another party who has no actual connection to the disputed domain names. The use of false registration data in connection with the disputed domain names (and in this case, broader identity theft used to perpetrate fraud) further supports a finding of bad faith registration and use. See, e.g., *Action Instruments, Inc v. Technology Associates*, WIPO Case No. [D2003-0024](#).

Based on the available record, the Panel finds the third element of the Policy has been established.

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 <sigmadefencejobs.com> and <sigmadefensejobs.com> be transferred to the Complainant.

/Phillip V. Marano/

Phillip V. Marano

Sole Panelist

Date: July 11, 2023