

ADMINISTRATIVE PANEL DECISION

24-7 Bright Star Healthcare, LLC v. Carolina Rodrigues, Fundacion Comercio Electronico

Case No. D2023-1885

1. The Parties

The Complainant is 24-7 Bright Star Healthcare, LLC, United States of America (“United States”), represented by DLA Piper US LLP, United States.

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <brightstascare.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 26, 2023¹. On April 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 28, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 8, 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 amended Complaint on May 9, 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 the Respondent of the Complaint, and the proceedings commenced on May 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 31, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Commencement of Panel Appointment Process on June 21, 2023.

¹ The Complaint was originally filed involving three domain names, the other domain names were removed from the proceeding because the registrants of those domain names were willing to transfer it to the Complainant.

The Center appointed Mihaela Maravela as the sole panelist in this matter on June 23, 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

According to information in the Complaint, the Complainant, through its licensees and franchisees, offers medical and nursing personnel placement, recruiting and staffing, and other related services, through more than 340 independently owned and operated locations.

The Complainant has registered various trademarks consisting of or including BRIGHTSTAR CARE, such as the United States trademark registration for BRIGHTSTAR CARE (word), registered under No. 4042547 as of October 18, 2011. The Complainant is the registrant owner of the domain name <brightstarcare.com> used as the Complainant's official website.

The disputed domain name was registered on April 4, 2023 and at the date of filing the Complaint, it resolved to a parking page with pay-per-click ("PPC") links to third party service offerings. At the date of the Decision, the disputed domain name is linked to an active redirection webpage, leading to various websites, including a lottery and gambling website or to a Chrome web store.

5. Parties' Contentions

A. Complainant

The Complainant argues that the disputed domain name is a typosquatted version of the Complainant's BRIGHTSTAR CARE trademark, therefore confusingly similar to it.

As regards the second element, the Complainant contends that it has not licensed or otherwise permitted the Respondent to use the Complainant's BRIGHTSTAR CARE trademark, or to apply for or use any domain name incorporating that trademark. The disputed domain name resolves to parked website, which does not constitute a *bona fide* offering of products or services.

With respect to the third element, the Complainant argues that the Respondent had constructive notice that the BRIGHTSTAR CARE trademark was a registered trademark in the United States, China, and many other jurisdictions worldwide. The Respondent did not register the disputed domain name to actually offer services but, instead, registered and is using the disputed domain name for bad-faith purpose, to intentionally mislead the public to believe that the Respondent is associated or affiliated with the Complainant.

B. Respondent

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

6. Discussion and Findings

No response has been received from the Respondent in this case. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules. The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights, (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

Under paragraph 4(a)(i) of the Policy, the Complainant must prove that it has rights to a trademark, and that the disputed domain name is identical or confusingly similar to that trademark. This first element under the Policy functions primarily as a standing requirement. [WIPO Overview 3.0](#), section 1.7.

The Complainant has provided evidence of its rights in the BRIGHTSTAR CARE trademark by providing evidence of its trademark registrations.

As regards the second limb of the first element, the test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name. It is well-established that the generic Top-Level Domain (“gTLD”), in this case “.com” may be ignored when assessing the confusing similarity between the disputed domain name and the Complainant’s trademarks.

Here the disputed domain name consists of the obvious misspelling of the BRIGHTSTAR CARE trademark of the Complainant, with the replacement of the letter “r” with “s” at the end of “brightstar”. This misspelling in the disputed domain name also referred to as typosquatting, does not prevent a finding of confusing similarity (see [WIPO Overview 3.0](#), section 1.9).

The Panel finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent’s rights or legitimate interests in the disputed domain name.

As established by previous UDRP panels, it is sufficient for the Complainant to make a *prima facie* case demonstrating that the Respondent has no rights or legitimate interests in the disputed domain name in order to place the burden of production on the Respondent (see section 2.1 of the [WIPO Overview 3.0](#)).

In the present case, the Complainant has established that it holds rights over the trademark BRIGHTSTAR CARE, and that the Respondent has no legitimate reason to acquire and use the disputed domain name. There is no evidence that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of the disputed domain name within the meaning of paragraphs 4(c)(i) and (iii) of the Policy. Rather, according to the un rebutted evidence put forward by the Complainant, the disputed domain name was used to host a parked page comprising PPC links to third-party services. At the date of the Decision, it is linked to an active redirection webpage, leading to various websites, including a lottery and gambling website or to a Chrome web store, which shows in the Panel’s view, the Respondent’s intention to divert consumers for commercial gain to such websites, by taking unfair advantage of the goodwill and reputation of the Complainant’s trademarks. The Panel considers that such use does not confer rights or legitimate interests to the Respondent.

Also, there is no evidence that the Respondent is commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy.

The Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent failed to rebut that *prima facie* case because it did not respond to the Complainant's contentions.

With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

Under paragraph 4(a)(iii) of the Policy, the Complainant must prove that the disputed domain name was registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, "in particular but without limitation", be evidence of the disputed domain name's registration and use in bad faith.

According to the un rebutted assertions of the Complainant, its BRIGHTSTAR CARE trademarks were widely used in commerce well before the registration of the disputed domain name and are reputed. The disputed domain name is confusingly similar with the Complainant's trademarks. Under these circumstances, the Panel considers that the Respondent has registered the disputed domain name with knowledge of the Complainant and its trademark and that it targeted that trademark. The typosquatting nature of the disputed domain name further supports this inference.

As regards the use of the disputed domain name, from the evidence in the case file and not rebutted by the Respondent, it results that the disputed domain name redirected Internet traffic to a website displaying PPC advertisements and currently redirects Internet traffic to various websites, including a lottery and gambling website or to a Chrome web store. Given the confusing similarity between the Complainant's BRIGHTSTAR CARE trademark and the disputed domain name, and that the websites appear to be used for commercial gain of the Respondent or of the operators of those linked websites, or both, the Panel considers that the disputed domain name is intended to attract Internet users by creating a likelihood of confusion with the Complainant's BRIGHTSTAR CARE trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's websites or other online location or of a service offered on such other online location within the terms of paragraph 4(b)(iv) of the Policy.

Also, there appears to be a pattern of abusive registrations by the Respondent, as the un rebutted information in the case file shows that the Respondent was involved in numerous other UDRP proceedings where similar factual situations caused the concerned UDRP panels to decide in favor of the complainants, (see e.g., *CK Franchising, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2022-2217](#)).

Moreover, the Respondent has not formally participated in this proceeding and has failed to rebut the Complainant's contentions and to provide any evidence of actual or contemplated good faith use and indeed none would seem plausible.

With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(iii) of the Policy is satisfied.

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, <brightstascare.com>, be transferred to the Complainant.

/Mihaela Maravela/

Mihaela Maravela

Sole Panelist

Date: July 7, 2023