

ADMINISTRATIVE PANEL DECISION

Universal Services of America, LP d/b/a Allied Universal v. Mansor Almosa
Case No. D2023-2288

1. The Parties

Complainant is Universal Services of America, LP d/b/a Allied Universal, United States of America (“United States” or “US”), represented by Cozen O’Connor, United States

Respondent is Mansor Almosa, United States.

2. The Domain Name and Registrar

The disputed domain name <allieduniversal-hr.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 25, 2023. On May 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 26, 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) and contact information in the Complaint. The Center sent an email communication to Complainant on July 14, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on July 17, 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 July 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 8, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 15, 2023.

The Center appointed Phillip V. Marano as the sole panelist in this matter on August 29, 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 was originally established in 1957 and has since become one of the largest security services company in the world. Complainant owns valid and subsisting registrations for the ALLIED UNIVERSAL trademark in the United States, including the trademark for ALLIED UNIVERSAL (US Reg. No. 5,136,006), registered on February 7, 2017, with the earliest priority dating back to August 1, 2016.

Respondent registered the disputed domain name on May 2, 2023. At the time this Complaint was filed, the disputed domain name resolves to an under construction page that reads “Awesome Site in The Making! An amazing site is coming to this web address. Check back soon!”

5. Parties’ Contentions

A. Complainant

Complainant asserts ownership of the ALLIED UNIVERSAL trademark and has adduced evidence of trademark registrations in the United States, with earliest priority dating back to August 1, 2016. The disputed domain name is confusingly similar to Complainant’s ALLIED UNIVERSAL trademark, according to Complainant, because it prominently incorporates the identical ALLIED UNIVERSAL elements and includes the additional “hr” element, which is the commonly known abbreviation for “Human Resources”. Therefore, the disputed domain name, according to Complainant, increases the likelihood of confusion because consumers may believe it is affiliated with Complainants’ human resources department.

Complainant further asserts that Respondent lacks any rights or legitimate interests in the disputed domain name based on: Respondent’s use of a proxy registration service; the lack of any affiliation, authorization, license or endorsement between Respondent and Complainant; the lack of any evidence that Respondent is known by the ALLIED UNIVERSAL trademark; and Respondent’s passive holding and inactive parking of the disputed domain name.

Complainant argues that Respondent has registered and used the disputed domain name in bad faith for numerous reasons, including: Respondent’s constructive knowledge of Complainant’s federally trademark rights in the United States; Respondent’s use of the “hr” element within the disputed domain name, and the likelihood Respondent plans to use the disputed domain name to host a website or email extension to fraudulent obtain personal information from individuals believing that Respondent is actually related to Complainant’s human resources department; Respondent’s use of a proxy registration service to conceal its true identity; and Respondent’s passive holding and inactive parking of the disputed domain name.

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 name is 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 name; and
- iii. the disputed domain name has been registered and is being used in bad faith.

Although Respondent did not reply to Complainant's contentions, the burden remains with Complainant to establish by a balance of probabilities, or a preponderance of the evidence, all three elements of paragraph 4(a) of the Policy. A respondent's default would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true. UDRP panels have been prepared to draw certain inferences in light of the particular facts and circumstances of the case, e.g. where a particular conclusion is *prima facie* obvious, where an explanation by the respondent is called for but is not forthcoming, or where no other plausible conclusion is apparent. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), sections 4.2 and 4.3; see also *The Vanguard Group, Inc. v. Lorna Kang*, WIPO Case No. [D2002-1064](#) ("The Respondent's default does not automatically result in a decision in favor of the complainant. The Complainant must still prove each of the three elements required by Policy paragraph 4(a)").

A. Identical or Confusingly Similar

Ownership of a nationally or regionally registered trademark serves as *prima facie* evidence that Complainant has trademark rights for the purposes of standing to file this Complaint. [WIPO Overview 3.0](#), section 1.2.1. Complainant submitted evidence that the ALLIED UNIVERSAL trademark has been registered in the United States with priority dating back to August 1, 2016. Thus, the Panel finds that Complainant's rights in the ALLIED UNIVERSAL trademark have been established pursuant to the first element of the Policy.

The only remaining question under the first element of the Policy is whether the disputed domain name is identical or confusingly similar to Complainant's ALLIED UNIVERSAL trademark. In this Complaint, the disputed domain name is confusingly similar to Complainant's ALLIED UNIVERSAL trademark because, disregarding the ".com" generic Top-Level Domain ("gTLD"), the entirety of Complainant's identical trademark is contained within the 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..."). In regards to gTLDs, such as ".com" in the disputed domain name, they are generally viewed as a standard registration requirement and are disregarded under the first element. [WIPO Overview 3.0](#), section 1.11.

The combination with a hyphen and the term "hr" does not prevent a finding of confusing similarity between Complainant's ALLIED UNIVERSAL trademark and the disputed domain name. WIPO Overview, 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 e.g. *OSRAM GmbH v. Cong Ty Co Phan Dau Tu Xay Dung Va Cong Nghe Viet Nam*, WIPO Case No. [D2017-1583](#) ("[T]he addition of the letters 'hbg' to the trademark OSRAM does not prevent a finding of confusing similarity between the Disputed Domain Name and the said trademark."). Indeed, the Panel concurs with Complainant that the additional hyphen and the term "hr" does not dispel the confusing similarity between Complainant's ALLIED UNIVERSAL trademark and the disputed domain name.

In view of the foregoing, the Panel concludes that Complainant has established the first element of the Policy.

B. Rights or Legitimate Interests

Complainant must make out a *prima facie* case that Respondent lacks rights or legitimate interests in the disputed domain name, 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, section 2.1.

It is evident that Respondent, identified by Whois data for the disputed domain name as “Mansor Almossa”, is not commonly known by the disputed domain name or Complainant’s ALLIED UNIVERSAL trademark.

Passively holding a domain name in and of itself does not constitute a *bona fide* offering of goods or services. *Philip Morris USA Inc. v. Gabriel Hall*, WIPO Case No. [D2015-1779](#); *Teachers Insurance and Annuity Association of America v. Wreaks Communications Group*, WIPO Case No. [D2006-0483](#) (“[A]bsent some contrary evidence from Respondent, passive holding of a Domain Name does not constitute legitimate noncommercial or fair use”). In this Complaint, the record is devoid of any evidence that the disputed domain name has been used for anything in the past four-plus months since it was registered by Respondent other than a parking website that reads, “Awesome Site in The Making! An amazing site is coming to this web address. Check back soon!”.

In addition, Complainant has made a plausible argument that the disputed domain name is likely used in connection with an email phishing scheme, based largely on its composition and Respondent’s purposeful inclusion of the term “hr” (a common acronym for “human resources”). Indeed, the Panel was able to quickly confirm through minimal independent investigation that Respondent has proactively configured the disputed domain name with MX servers, meaning that Respondent can send and receive emails using the disputed domain name.¹ Again, the Panel notes that the evidentiary record is devoid of any plausible explanation or legitimate need for Respondent to send emails to, or receive emails from, anyone using the disputed domain name, which Complainant has persuasively argued creates a likelihood of confusion with Complainant’s human resources department. To be perfectly clear, while such an explanation or legitimate need may arguably exist, as in the case of cybersecurity research, there is nothing in this particular case to suggest anything other than Respondents’ lack of rights or legitimate interests.

In view of the foregoing, the Panel concludes that Complainant has established the second element of the Policy.

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 the disputed domain name:

- 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.

¹ A panel may undertake limited factual research into matters of public record where it considers such information useful to assessing the case merits and researching a decision. This includes visiting the website linked to the disputed domain name in order to obtain more information about the respondent or its use of the domain name, consulting historical resources like the Internet Archive, reviewing dictionaries, encyclopedias, or accessing trademark registration or other governmental databases. [WIPO Overview 3.0](#), Section 4.8.

Where parties are both located in the United States and the Complainant has obtained a federal trademark registration pre-dating a respondent's domain name registration, panels have applied the concept of constructive notice, subject to the strength or distinctiveness of the complainant's trademark, or circumstances that corroborate respondent's awareness of the complainant's trademark. [WIPO Overview 3.0](#), section 3.2.2. In this Panel's view, when the disputed domain name was registered on May 2, 2023, Respondent had constructive knowledge of Complainant's pre-existing rights in Complainant's ALLIED UNIVERSAL trademark under United States law. See e.g., *Champion Broadcasting System, Inc. v. Nokta Internet Technologies*, WIPO Case No. [D2006-0128](#) (applying the principle of constructive notice where both parties are located in the United States). Generally, prior UDRP panels have found that the mere 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. [WIPO Overview 3.0](#), section 3.1.4. Indeed, circumstances in this case corroborate Respondent's awareness of Complainant and Complainant's ALLIED UNIVERSAL trademark, including (as discussed further below) Respondent's purposeful selection of the acronym "hr" for "human resources" in conjunction with Complainant's ALLIED UNIVERSAL trademark and trade name, and Complainant's plausible argument that Respondent uses the disputed domain name as part of an email phishing scheme posing as Complainant's human resources department.

Passively holding a domain name does not prevent a finding of bad faith. WIPO Overview, section 3.3. This includes domain names that do not resolve to any website content as well as domain names that are parked with a "coming soon" message or other similar content like, "Awesome Site in The Making!" Where a domain name is being passively held, as alleged in this case, bad faith registration and use exists based upon: (i) the degree of distinctiveness or reputation of the complainant's mark; (ii) the failure of the respondent to submit any response or offer any credible evidence of rights or legitimate interests; (iii) the respondent's concealing its identity or use of false contact details; and (iv) the implausibility of any good faith use which the domain name may be put. See *Id.* See also *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#) ("A remedy can be obtained under the Uniform Policy only if those circumstances show that the Respondent's passive holding amounts to acting in bad faith.")

In the Panel's view, the composition of the disputed domain name plus Complainant's portfolio of United States trademark registrations for Complainant's ALLIED UNIVERSAL trademark make any good faith use of the disputed domain name by the Respondent relatively implausible. Furthermore, the Panel acknowledges Respondent's failure to respond to offer any credible evidence of rights or legitimate interests.

In view of the foregoing, the Panel concludes that Complainant has established the third element 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 name, <allieduniversal-hr.com>, be transferred to Complainant.

/Phillip V. Marano/

Phillip V. Marano

Sole Panelist

Date: September 12, 2023