

ADMINISTRATIVE PANEL DECISION

Givelify LLC v. Name Redacted

Case No. D2023-2406

1. The Parties

Complainant is Givelify LLC, United States of America (“U.S.” or “United States”), represented by Kolawole Law Firm LLC, U.S.

Respondent is Name Redacted¹.

2. The Domain Names and Registrar

The disputed domain names <givelify.info>, <givelify.life>, <givelify.live> and <givellify.life> (the “Domain Names”) are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 3, 2023. On June 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On June 5, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent (Redacted for Privacy) and contact information in the Complaint.

The Center sent an email communication to Complainant on the same June 5, 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 June 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”).

¹ Respondent appears to have used the name of a third party when registering the Domain Name. 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 Domain Name, 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Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case.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](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on June 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 5, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on July 6, 2023.

The Center appointed John C. McElwaine as the sole panelist in this matter on July 13, 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 United States-based company that has a mobile application and web-based application for fundraising purposes. Relevant to this matter, Complainant owns United States trademark registration for the mark GIVELIFY (stylized), Reg No. 4491096, registered on March 4, 2014 in International Class 09, and for the mark GIVELIFY.COM, Reg. No. 6489289, registered on September 21, 2021 in International Classes 09 and 42. Collectively, these registered trademarks are referred to as the "GIVELIFY Mark".

The Domain Names were registered between March 27, 2023 and April 12, 2023. At the time of filing the Complaint, the Domain Names did not resolve to active websites.

5. Parties' Contentions

A. Complainant

As background, Complainant alleges that it is the creator and distributor of a mobile application and web-based donation management application designed to help places of worship and nonprofit organizations connect with multiple donors to receive charity funds. Complainant asserts that its mobile application is highly ranked with both the Apple and Google Play stores having over 500K+ downloads on these platforms.

With respect to the first element of the Policy, Complainant asserts that the Domain Names, <givelify.live>, <givelify.life>, <givellify.life>, and <givelify.info>, are confusingly similar to its GIVELIFY Mark. Complainant further points out that <givellify.life> is a typographical error of its GIVELIFY Mark and adds an extra letter "l" to its trademark.

With respect to the second element of the Policy, Complainant alleges that Respondent has no rights or legitimate interests to the Domain Names containing the GIVELIFY Mark. Complainant contends that no goods or services are offered under the Domain Names; that Respondent is not commonly known by the Domain Names; that Respondent is not associated or affiliated with Complainant; and that Respondent has never been authorized by Complainant to use the GIVELIFY Mark in any manner, much less as part of a domain name. Complainant further alleges, upon information and belief, Respondent unfairly capitalizing on the valuable goodwill of the GIVELIFY Mark by using the Domain Names to likely perpetuate a recruitment fraud where Respondent is offering job positions to unsuspecting individuals in the name of Complainant. Complainant further contends that the listed Respondent is the false name of a senior employee of Complainant and an affidavit was provided as support. Complainant asserts that Respondent's use of a false name to register the Domain Names is further evidence they were registered for fraudulent purposes and that Respondent has no rights or legitimate interests in the Domain Names.

With respect to the third elements of the Policy, Complainant alleges that Respondent registered the Domain Names, which are identical to the GIVELIFY Mark to engage in a recruitment fraud scheme. Complainant further alleges that the Domain Names were registered under a false name establishing that they were improperly used.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Although Respondent defaulted, to succeed in this UDRP proceeding, paragraph 4 of the Policy requires Complainant to prove its assertions with evidence demonstrating:

- (i) each Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Names; and
- (iii) the Domain Names have been registered and is being used in bad faith.

Because of Respondent's default, and depending on the circumstances of the case, the Panel may accept as true the reasonable factual allegations stated within the Complaint and may draw appropriate inferences therefrom. See *St. Tropez Acquisition Co. Limited v. Anonymous Speech LLC and Global House Inc.*, WIPO Case No. [D2009-1779](#); *Bjorn Kassoe Andersen v. Direction International*, WIPO Case No. [D2007-0605](#); see also paragraph 5(f) of the Rules ("If a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint"). Having considered the Complaint, the Policy, the Rules, the Supplemental Rules, and applicable principles of law, the Panel's findings on each of the above-cited elements are as follows.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires Complainant show that the Domain Name are identical or confusingly similar to a trademark or service mark in which Complainant has rights. Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2. On this point, Complainant has provided evidence that it is the owner of multiple registrations for the GIVELIFY Mark.

The Domain Names <givelify.info>, <givelify.life>, and <givelify.live> are identical to Complainant's GIVELIFY Mark, and are thus, immediately recognizable within each Domain Name.

The Domain Name, <givellify.life>, consists of Complainant's GIVELIFY Mark with an additional letter "l". As discussed in the [WIPO Overview 3.0](#), section 1.9, the consensus view is that "a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element". Similarly, previous UDRP panels have consistently held that "a mere addition or a minor misspelling of Complainant's trademark does not create a new or different mark in which Respondent has legitimate rights". *Express Scripts, Inc. v. Whois Privacy Protection Service, Inc. / Domaindeals, Domain Administrator*, WIPO Case No. [D2008-1302](#) ("Such insignificant modifications to trademarks is commonly referred to as "typosquatting" or "typo-piracy", as such conduct seeks to wrongfully take advantage of errors by users in typing domain names into their web browser's location bar."). Here, the Domain Name is confusingly similar to Complainant's GIVELIFY Mark differing only by the addition of the letter "l" between "give" and "lify".

Accordingly, the Panel finds that the Domain Names are identical and confusingly similar to Complainant's GIVELIFY Mark in which Complainant has valid trademark rights. Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under the Policy, paragraph 4(a)(ii), Complainant has the burden of establishing that Respondent has no rights or legitimate interests in the Domain Names. Complainant needs only make a *prima facie* showing on this element, at which point the burden of production shifts to Respondent to present evidence that it has rights or legitimate interests in the Domain Names. If Respondent has failed to do so, then Complainant is deemed to have satisfied its burden under paragraph 4(a)(ii) of the Policy. See *Vicar Operating, Inc. v. Domains by Proxy, Inc. / Eklin Bot Systems, Inc.*, WIPO Case No. [D2010-1141](#); see also *Nicole Kidman v. John Zuccarini, d/b/a Cupcake Party*, WIPO Case No. [D2000-1415](#); *Inter-Continental Hotels Corporation v. Khaled Ali Soussi*, WIPO Case No. [D2000-0252](#).

Complainant alleged that a false name was used as the owner of the Domain Names. Further, Complainant contends that it has never authorized Respondent to use the GIVELIFY Mark in any manner and that the true Respondent is not commonly known by the Domain Name. Furthermore, Complainant asserts that Respondent has not demonstrated any attempt to use the Domain Name in connection with a *bona fide* offering of goods or services, instead, Complainant alleges that the Domain Names are inactive and were likely used in connection with a fraudulent employment offer scheme. This is sufficient to make a *prima facie* showing for this element of the Policy.

The Policy, paragraph 4(c), provides a non-exhaustive list of circumstances in which a respondent could demonstrate rights or legitimate interests in a contested domain name:

“(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are making a 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.”

As an initial matter, there is no evidence that Respondent is commonly known by the Domain Names. The Panel notes Complainant established that a false name and contact information was supplied by Respondent in registering the Domain Names. The Panel therefore finds, based on the record and the lack of evidence otherwise, that Respondent is not commonly known by the Domain Names. See *Moncler S.p.A. v. Bestinfo*, WIPO Case No. [D2004-1049](#) (the Panel notes that the respondent’s name is “Bestinfo” and that it can therefore not be “commonly known by the Domain Name.”)

The Panel finds that a probable purpose of registering the Domain Names was to engage in a fraudulent employment offer scheme, which clearly would not be a *bona fide* offering of goods or services. [WIPO Overview 3.0](#), section 2.13.1 (“Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent.”); see also, *Startup Group v. Whois Agent, Domain Protection Services, Inc. / Dominique Geffroy*, WIPO Case No. [D2020-3330](#) (“finding an employment offer scam to be an example of use of a domain name for the illegitimate purpose of impersonating the Complainant in the furtherance of a fraudulent scheme”). However, in the absence of such evidence on record, the Panel cannot conclude on this finding.

Even if the Domain Names were not utilized for a fraudulent scheme, they do not resolve to an active website, and as such, are not being used in connection with a *bona fide* offering of goods or services pursuant to Policy paragraph 4(c)(i). See *Société nationale des télécommunications: Tunisie Telecom v. Ismael Leviste*, WIPO Case No. [D2009-1529](#) (“noting that passive holding of a disputed domain name “does not constitute a legitimate use of such a domain name” that would give rise to a legitimate right or interest in

the name”); *Philip Morris USA Inc. v. Daniele Tornatore*, WIPO Case No. [D2016-1302](#) (“Respondent had no rights or legitimate interests in the disputed domain name where the disputed domain name resulted to an inactive website”); *Philip Morris USA Inc. v. Elijah Etame*, WIPO Case No. [D2016-0968](#) (“the Panel cannot imagine any potentially legitimate interest that Respondent might have in the disputed domain names based on the manner in which the disputed domain names have been used on the inactive websites”). The Panel finds that the registration of the Domain Names are not a *bona fide* offering of goods or services under the Policy.

Based on the foregoing, Complainant has made a *prima facie* showing of Respondent’s lack of any rights or legitimate interests and Respondent has failed to come forward to rebut that showing. As provided for by paragraph 14 of the Rules, the Panel may draw such inference from Respondent’s default as it considers appropriate.

The Panel finds that Respondent does not have rights or legitimate interests in the Domain Names and that Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under paragraph 4(a)(iii) of the Policy, Complainant must show that Respondent registered and is using the Domain Names in bad faith. A non-exhaustive list of factors constituting bad faith registration and use is set out in paragraph 4(b) of the Policy.

Bad faith registration can be found where respondents “knew or should have known” of complainant’s trademark rights and nevertheless registered a domain name in which he had no right or legitimate interest. See *Accor S.A. v. Kristen Hoerl*, WIPO Case No. [D2007-1722](#). Here, the GIVELIFY Mark is a unique word used in connection with a popular mobile application. Based on the evidence provided by Complainant, which was not rebutted by Respondent, Respondent knew of Complainant’s GIVELIFY Marks when it registered the Domain Names. Further supporting the finding that Respondent knew of Complainant’s trademark rights when registering the Domain Name, Complainant submitted evidence showing that Respondent registered the Domain Names using the name of one of Complainant’s employees. Registering a domain name with false contact details also has commonly held to be bad faith under the Policy. See *Hermes International v. Jack Yong*, WIPO Case No. [D2017-1959](#) (“the fact of a non-existent postal address is difficult to explain”); *TBWA Worldwide, Inc. v. Karim Bendali*, WIPO Case No. [D2019-1932](#) (“the postal address revealed by the Registrar was not accurate”).

The fact that the Domain Names have been passively held and not used in connection with a competing website does not obviate a finding of bad faith. Section 3.3 of the [WIPO Overview 3.0](#), instructs that panelists should examine the totality of the circumstances in each case and that the following factors that have been considered relevant in applying the passive holding doctrine: “(i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put.”

Here, Complainant has put forth sufficient evidence to establish that Complainant’s GIVELIFY Mark is distinctive, was used in connection with a popular application and that Respondent falsely used the name of one of Complainant’s employees in the registration contact details. Complainant further asserts that Respondent registered the Domain Name to engage in an employment offer scheme. This assertion was not effectively proven on record, but in any event, such activity would constitute a disruption of Complainants’ business and would establish bad faith registration and use pursuant to paragraph 4(b)(iii) of the Policy. *Securitas AB v. Whois Privacy Protection Service, Inc. / A. H.*, WIPO Case No. [D2013-0117](#) (“Finding bad faith based upon the similarity of the disputed domain name and the complainant’s mark, the fact that the complainant is a well-known global security company and the fact that the disputed domain name is being used to perpetrate an email scam”).

Nevertheless, in this case, the Panel takes into account the notoriety of Complainant's GIVELIFY Mark, the absence of any explanation or response from Respondent, the implausibility of any good faith use to which the inherently misleading Domain Names may be put as well as the impersonation of one of Complainant's employees to conclude that the Domain Names were registered and used in bad faith. Therefore, the Panel finds that passive holding of the Domain Names does not, in the circumstances of this case, prevent a finding of bad faith ([WIPO Overview 3.0](#), section 3.3).

For the reasons set forth above, the Panel holds that Complainant has met its burden under paragraph 4(a)(ii) of the Policy and has established that Respondent registered and used the Domain Names in bad faith.

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 Domain Names <givelify.info>, <givelify.life>, <givelify.live> and <givellify.life> be transferred to Complainant.

/John C McElwaine/

John C McElwaine

Sole Panelist

Date: July 31, 2023