

ADMINISTRATIVE PANEL DECISION

Refugee & Immigration Legal Centre, Inc v. Alex Antonowicz, Refugee & Immigration Legal Centre

Case No. D2023-2418

1. The Parties

The Complainant is Refugee & Immigration Legal Centre, Inc, Australia, represented by Corrs Chambers Westgarth, Australia.

The Respondent is Alex Antonowicz, Refugee & Immigration Legal Centre, Australia.

2. The Domain Name and Registrar

The disputed domain name <refugeelegalau.org> is registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 5, 2023. On June 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 6, 2023, the Registrar transmitted by email to the Center its verification response:

- (a) confirming the disputed domain name is registered with it;
- (b) confirming the language of the registration agreement is English; and
- (c) disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Registration Private) and contact information in the Complaint.

The Center sent an email communication to the Complainant on June 7, 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 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”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 13, 2023.

The Center appointed Warwick A. Rothnie as the sole panelist in this matter on July 31, 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 Complainant claims to be Australia's largest not-for-profit provider of free specialist legal assistance to persons seeking asylum, refugees and disadvantaged migrants. It has been operating under the registered business name and trading style or name "Refugee Legal" since December 2015.

As at June 2021, the Complainant had 44 paid employees and around 550 volunteers. In 2021-2022, the Complainant provided assistance to over 14,000 clients from 114 different countries. The Complainant funds its operations through donations, fund raising activities, and government grants. Its revenues, including government grants, have grown from AUD 1.8 million in 2015-2016 to over AUD 5.7 million in 2021-2022.

The Complainant operates a website at "www.refugeelegal.org.au". Its business name, Refugee Legal, features prominently on that site. According to the Complaint, on average the website receives over 20,000 hits every month.

The Complainant has a Facebook account under the username @refugeelegal, created in May 2016, with over 3,600 followers. Its Twitter account under the username @refugeelegal was created in May 2014 and has over 2,250 followers; (c) its Instagram account under the username @refugeelegal has over 1,060 followers; and its LinkedIn account under the username @refugee-legal has over 1,850 followers.

The disputed domain name was registered on July 11, 2022.

It does not appear to have resolved to an active website. Within one month of its registration, however, the disputed domain name was used in connection with at least one email account from "Alex W", purporting to be from an officer or employee of the Complainant.

In an email sent from this account on August 10, 2022, the sender:

- (a) confirmed that the Complainant would provide the addressee with assistance in relation to the recipient's application for a protection visa;
- (b) attached various documents for the recipient to complete including a "Form 956" which purported to appoint one of the Complainant's legal staff as the recipient's lawyer and a medical authority form on the Complainant's letterhead authorising sender to "speak to doctors or other medical professionals about [the recipient] ... to assist with [the recipient's] visa application";
- (c) requested a copy of the recipient's passport;
- (d) contained details of an appointment for the recipient to attend; and
- (e) replicated the signature block used by the Complainant's employees including the Complainant's official address and electronic co-ordinates, but under the Respondent's name.

The recipient provided the requested personal information and documents to the sender. The conduct came to the Complainant's notice when the recipient of the email contacted the Complainant to confirm details about the proposed (but nonexistent) appointment.

The Complainant's inquiries have not been able to identify any individual in Australia by the name of the Respondent.

The telephone number used by the Respondent in registering the disputed domain name is also used on a website for "SC Secretarial Services" which appears to promote business administration services.

5. Discussion and Findings

No response has been filed. The Complaint and Written Notice have been sent, however, to the Respondent at the electronic and physical coordinates confirmed as correct by the Registrar in accordance with paragraph 2(a) of the Rules. Bearing in mind the duty of the holder of a domain name to provide and keep up to date correct WhoIs details, therefore, the Panel finds that the Respondent has been given a fair opportunity to present his or its case.

When a respondent has defaulted, paragraph 14(a) of the Rules requires the Panel to proceed to a decision on the Complaint in the absence of exceptional circumstances. Accordingly, paragraph 15(a) of the Rules requires the Panel to decide the dispute on the basis of the statements and documents that have been submitted and any rules and principles of law deemed applicable.

Paragraph 4(a) of the Policy provides that in order to divest the Respondent of the disputed domain name, the Complainant must demonstrate each of the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the record as set out above, and also noting the clear targeting of the Complainant's name and services by the Respondent, the Panel finds the Complainant has established unregistered trademark rights for the purposes of the Policy in the name "Refugee Legal". [WIPO Overview 3.0](#), section 1.3.

In undertaking the comparison required for this inquiry under the Policy, it is permissible in the present circumstances to disregard the generic Top Level Domain ("gTLD") component as a functional aspect of the domain name system. [WIPO Overview 3.0](#), section 1.11.

Disregarding the ".org" gTLD, the disputed domain name consists of the Complainant's unregistered trademark and the term "au". The term "au" is a commonly used abbreviation for Australia including, amongst other things, as the country code extension for the ".au" country code Top Level Domain. Appending this term to the Complainant's unregistered trademark as part of the second level domain does not preclude a finding of confusing similarity. See e.g., [WIPO Overview 3.0](#), section 1.8. Apart from anything else, the Complainant's trademark remains visually and aurally recognisable within the disputed domain name.

Accordingly, the Panel finds that the Complainant has established that the disputed domain name is confusingly similar to the Complainant's trademark and the requirement under the first limb of the Policy is satisfied.

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

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

The Complainant states that the Respondent is not one of its employees or volunteers. Nor is the Respondent associated with the Complainant in any other way.

The disputed domain name is not derived from the Respondent's name.

At the very least, the use of the disputed domain name to pass off the Respondent falsely as an employee or other representative of the Complainant does not qualify as a good faith provision of goods or services under the Policy. Nor can it qualify as a legitimate noncommercial or other fair use. If, as the Complainant contends, the disputed domain name is being used to harvest private personal information and copies of passports, the Policy cannot and does not countenance such conduct. See e.g., *Accenture Global Services Limited v. Patel Holdings*, WIPO Case No. [D2016-0367](#) and also [WIPO Overview 3.0](#), section 2.13.

Accordingly, the Complainant has established a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Respondent has not sought to rebut that *prima facie* case or otherwise seek to justify the Respondent's conduct.

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

C. Registered and Used in Bad Faith

Under the third requirement of the Policy, the Complainant must establish that the disputed domain name has been both registered and used in bad faith by the Respondent. These are conjunctive requirements; both must be satisfied for a successful complaint: see e.g., *Burn World-Wide, Ltd. d/b/a BGT Partners v. Banta Global Turnkey Ltd*, WIPO Case No. [D2010-0470](#).

Generally speaking, a finding that a domain name has been registered and is being used in bad faith requires an inference to be drawn that the respondent in question has registered and is using the disputed domain name to take advantage of its significance as a trademark owned by (usually) the complainant.

It seems very likely that someone operating in the field of providing legal advice to refugees and migrants in Australia would be well aware of the Complainant and its use of the name "Refugee Legal". In any event, the sending of the email by "Alex W" purporting to be from the Complainant and reproducing the signature block used by the Complainant on its authorised correspondence barely one month after registration of the disputed domain name leads to a very strong inference that the Respondent was very aware of the

Complainant and its trademark when registering the disputed domain name.

Further, that very short time frame also leads to a very strong inference that the disputed domain name was registered for the purpose to which it was put – at the very least to pass off the sender falsely as a representative of the Complainant. That clearly constitutes registration in bad faith under the Policy.

The way in which the disputed domain name has been used is also use in bad faith under the Policy.

Accordingly, the Complainant has established all three requirements under the Policy.

6. 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, <refugeelegalau.org>, be transferred to the Complainant.

/Warwick A. Rothnie/

Warwick A. Rothnie

Sole Panelist

Date: August 14, 2023