

ADMINISTRATIVE PANEL DECISION

Grammarly Inc. v. Natasha Larionova
Case No. D2023-2457

1. The Parties

Complainant is Grammarly Inc., United States of America (“United States” or “U.S.”), represented by BrandIT GmbH, Switzerland.

Respondent is Natasha Larionova, United States.

2. The Domain Name and Registrar

The disputed domain name <grammarly-go.com> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 6, 2023. On June 7, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On June 9, 2023, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact.

The Center verified that the 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 June 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 4, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on July 5, 2023.

The Center appointed John C. McElwaine as the sole panelist in this matter on July 18, 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 San Francisco, California-based publisher of software. Complainant is the owner of numerous trademark registrations and applications for GRAMMARLY, including, relevant to this proceeding, the following trademark registrations:

- GRAMMARLY, European Union Reg. No. 018663801, registered on June 22, 2022 in Class 25;
- GRAMMARLY, United Kingdom Reg. No. UK00003759837, registered on May 20, 2022 in Class 25;
- GRAMMARLY, International Reg. No. 1590638, registered March 5, 2021 in Classes 9, 41, and 42; and
- GRAMMARLY, China Reg. No. 10787706, registered on November 21, 2015 in Class 9.

Collectively, these registered trademark rights are referred to herein as the “GRAMMERLY Mark”.

The Domain Name was registered on August 8, 2022. The Domain Name does not resolve to an active website.

5. Parties' Contentions

A. Complainant

As background, Complainant alleges that in 2009 it launched a writing and grammar checking software tool that helps users identify and correct grammar, spelling, punctuation, and other writing errors, which can be used as a browser extension, as a Microsoft Office add-on, or as a standalone mobile application. Complainant further contends that since its launch, its Grammarly software application has become well known and well regarded by the consuming public, as evidenced by the numerous accolades and awards it has won.

Complainant alleges that it has launched a feature called “GrammarlyGo”, which is a generative artificial intelligence tool that provides on-demand communication assistance directly within writing applications, supporting users throughout the writing process, whether it is composing an email thread or working on a lengthy document. Complainant asserts that it has taken necessary steps to protect its intellectual property rights by applying to register the GRAMMARLYGO trademark. Complainant also points out that it owns its primary <grammarly.com> domain name, and several other domain names consisting of the GRAMMARLY Mark.

With respect to the first element of the Policy, Complainant contends that it owns several valid, existing registrations for the GRAMMARLY Mark. Complainant alleges that the Domain Name is confusingly similar to its GRAMMARLY Mark because it incorporates the distinctive GRAMMARLY Mark in its entirety with only the addition of the word “go”.

With respect to the second element of the Policy, Complainant asserts that it has not licensed or authorized Respondent to use the GRAMMARLY Mark and that Respondent is not affiliated with Complainant. Complainant further alleges there is no evidence that Respondent is commonly known by the Domain Name. Lastly, Complainant asserts that Respondent’s passive holding of the Domain Name indicates a lack of rights or legitimate interests.

With respect to the third element of the Policy, Complainant asserts that it has a strong online presence and is very active on social media (Facebook, LinkedIn, and Instagram), which it uses to promote its marks and products. Complainant alleges that 30 million people and 50,000 teams around the world rely on Grammarly’s software to strengthen their writing and improve their communications. Complainant contends

that given the widespread use of its GRAMMARLY Mark, it is inconceivable that Respondent was unaware of the existence of Complainant when it registered the Domain Name. With respect to bad faith use, Complainant asserts that Respondent violated paragraph 4(b)(ii) of the Policy. Complainant further asserts, that by intentionally choosing a domain name that closely resembles Complainant's well-known GRAMMARLY Mark, Respondent is seeking to exploit and potentially mislead Internet users for commercial gain. In addition, Complainant asserts that the passive holding of the Domain Name suggests an attempt to extract undue monetary benefits from Complainant's established reputation and may disrupt its business activities.

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(a) of the Policy requires Complainant to prove its assertions with evidence demonstrating:

- (i) the 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 Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

Because of Respondent's default, 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](#); and 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 is 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 several registrations for the GRAMMARLY Mark.

The Domain Name contains Complainant's GRAMMARLY Mark in its entirety with the addition of the word, "-go", which also is the name of one of Complainant's features. The addition of other terms to a trademark in a domain name does not avoid a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8 ("Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element."); *Mastercard International Incorporated v. Dolancer Outsourcing Inc.*, WIPO Case No. [D2012-0619](#); *Air France v. Kitchkulture*, WIPO Case No. [D2002-0158](#); and *DHL Operations B. V. and DHL International GmbH v. Diversified Home Loans*, WIPO Case No. [D2010-0097](#). Here, the GRAMMARLY Mark is clearly recognizable in the Domain Name.

Accordingly, the Panel finds that the Domain Name is confusingly similar to Complainant's GRAMMARLY 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 holds no rights or legitimate interests in the Domain Name. A 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 some rights or legitimate interests in the disputed domain name. 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](#); and *Inter-Continental Hotels Corporation v. Khaled Ali Soussi*, WIPO Case No. [D2000-0252](#).

Complainant asserts that the Domain Name is confusingly similar to its well-known GRAMMARLY Mark and is identical to GrammarlyGo, which is a feature of Complainant's software. Complainant further alleges that Respondent has no right or legitimate interests and that Respondent has not received any license or authorization to use the GRAMMARLY Mark in a domain name. This is sufficient to make a *prima facie* showing of this element of the Policy.

Although Complainant has satisfied its burden, Respondent could establish a right or legitimate interest in the Domain Name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

“(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.”

The Panel finds that Respondent cannot show rights or legitimate interests under any of the three conditions.

As an initial matter, there is no evidence that Respondent is commonly known by the Domain Name. The Panel notes that the Whois information lists Respondent as “Natasha Larionova” and the Panel therefore finds, based on the record and the lack of evidence otherwise, that Respondent is not commonly known by the Domain Name. 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”).

Complainant contends it has not authorized, licensed, or permitted Respondent to use the GRAMMARLY Mark, which is an *indicia* of a lack of rights or legitimate interests in the Domain Name. See e.g., *Cartier International A. G. v. Blogger Pty Ltd, Publishing Australia*, WIPO Case No. [DAU2013-0037](#) (“finding that in the absence of any license or permission from the Complainant to use any of its trademarks or to apply for or use any domain name incorporating those trademarks, it is clear that no actual or contemplated *bona fide* or legitimate use of the domain name could be claimed by Respondent”). Although Respondent has been properly notified of the Complaint by the Center, Respondent failed to submit any response to rebut these points. The Panel agrees that the silence of a respondent may support a finding that it has no rights or legitimate interests in respect of the domain name. See *Alcoholics Anonymous World Services, Inc., v. Lauren Raymond*, WIPO Case No. [D2000-0007](#); and *Ronson Plc v. Unimetal Sanayi ve Tic.A.S.*, WIPO Case No. [D2000-0011](#).

Complainant points out that Respondent's Domain Name leads to an inactive website, and as such, is not 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 Tomatore*, 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”); and *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 and holding of the Domain Name is not a *bona fide* offering of goods or services and is not “fair use” of the Domain Name under paragraphs 4(c)(i) and (iii) of 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 Name 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 Name 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 also be found where respondents “knew or should have known” of complainant’s trademark rights and nevertheless registered a domain name in which they had no right or legitimate interest. See *Accor S.A. v. Kristen Hoerl*, WIPO Case No. [D2007-1722](#). Here, the GRAMMARLY Mark represents the goodwill of a well-known brand, which is also a unique and distinctive name. Complainant’s GRAMMARLY Mark was in use in commerce for years before Respondent’s registration of the Domain Name. Moreover, the fact that the name of Complainant’s feature, GrammarlyGo, was used demonstrates that Respondent knew of Complainant and its product offerings. Based on Complainant’s submission, which was not rebutted by Respondent, Respondent must have known of Complainant’s GRAMMARLY Mark when it registered the Domain Name. See *WhatsApp Inc. v. Francisco Costa*, WIPO Case No. [D2015-0909](#) (finding that “it is likely improbable that Respondent did not know about Complainant’s WHATSAPP trademark at the time it registered the Disputed Domain Name considering the worldwide renown it has acquired amongst mobile applications, and the impressive number of users it has gathered since the launch of the WhatsApp services in 2009”.)

The fact that the Domain Name does not resolve to an active website does not obviate a finding of bad faith use of the Domain Name. When a domain name is being passively held, the question of bad faith does not squarely fall under one of the aforementioned non exhaustive factors set out in paragraph 4(b) of the Policy. The three-member panel in *Magazine Publishers Inc. and Les Publications Conde Nast S.A. v. ChinaVogue.com*, WIPO Case No. [D2005-0615](#), made the following observations in its determination that the respondent was acting in bad faith:

- (i) the complainant’s trademark has a strong reputation and is widely known, as evidenced by its substantial use in the United States of America and in other countries;
- (ii) the respondent has provided no evidence whatsoever of any actual or contemplated good faith use by it of the domain name;
- (iii) the respondent registered the domain name in 1999, and seems not to have been using the domain name;
- (iv) the respondent did not reply to the complainant’s communications before the proceedings; and

(v) the respondent did not reply to the complainant's contentions.

In this case, given the fact that Complainant's GRAMMARLY Mark was used in connection with a specific reference to a feature of one of Complainant's products, it is apparent that Complainant has a known reputation. Respondent did not respond to the Complaint and has provided no evidence of its intended use of the Domain Name. However, given the unique nature of the GRAMMARLY Mark, it is likely that the Domain Name was registered to draw an association with Complainant. See *e.g.*, *Banco do Brasil S.A. v. Sync Technology*, WIPO Case No. [D2000-0727](#) ("holding that the exact copying of Complainant's mark, which deprived Complainant from legitimately reflecting its mark in a corresponding domain name, constitutes bad faith use where domain is passively held").

Based on the uncontested facts discussed in the previous sections, Respondent does not appear to have any rights or legitimate interests in the Domain Name nor does there appear to be any justification for Respondent's choice to register the Domain Name. Accordingly, on balance, there does not appear to be any other reason for Respondent's registration of the Domain Name other than for the possibility to trade off the goodwill and reputation of Complainant's GRAMMARLY Mark or otherwise create a false association with Complainant. With no response from Respondent, this claim is undisputed. This is additionally evidence of bad faith registration and use.

In sum, the Panel finds that Respondent knew or should have known of Complainant's trademark rights and that Respondent's present passive holding of the Domain Name is evidence of registration and use of the Domain Name in bad faith. For these reasons, the Panel holds that Complainant has met its burden of showing that Respondent registered and is using the Domain Name 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 Name, <grammarly-go.com>, be transferred to Complainant.

/John C McElwaine/

John C McElwaine

Sole Panelist

Date: August 1, 2023