

ADMINISTRATIVE PANEL DECISION

Universal Services of America, LP d/b/a Allied Universal v. Jamal Austin,
Allied Universal
Case No. D2023-2592

1. The Parties

The Complainant is Universal Services of America, LP d/b/a Allied Universal, United States of America (“Unites States”), represented by Cozen O'Connor, United States.

The Respondent is Jamal Austin, Allied Universal, United States.

2. The Domain Name and Registrar

The disputed domain name <allied-universal.org> (the “Domain Name”) 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 16, 2023. On June 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On June 16, 2023, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Unknown Registrant, c/o Google LLC / REDACTED FOR PRIVACY, Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 29, 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 29, 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 30, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 21, 2023.

The Center appointed Ellen B Shankman as the sole panelist in this matter on August 8, 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 is a company that provides security services.

The date of the Domain Name registration is May 19, 2023.

The trademark ALLIED UNIVERSAL serves as key brand of the Complainant and is protected as a registered trademark in a number of jurisdictions around the world. The Complainant provided evidence of trademark registration for the mark ALLIED UNIVERSAL, United States Trademark Registration No. 5,136,006 filed on May 6, 2016, and registered on February 7, 2017, for use in connection with a variety of services in Classes 37, 41, 42 and 45 that predates the date of the Domain Name registration. The Complainant claims that it has spent a considerable amount of time and money protecting its intellectual property rights, and has used the mark in commerce since as early as 2016.

The Respondent uses the Domain Name in connection with a website that appears to be inactive. The Panel conducted an independent inquiry to confirm that the Domain Name currently is inactive.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

Notably, the Complainant contends that established in 1957, the Complainant is the world's largest security services company providing proactive security services and cutting-edge technology to serve and safeguard customers. The Complainant, a USD18 billion company, operates in at least 90 countries across the globe, with a workforce of approximately 800,000 employees. The Complainant alleges that it is the third largest employer in North America and the seventh largest employer in the world.

To summarize the Complaint, the Complainant is the owner of registration for the trademark ALLIED UNIVERSAL, in respect of security services. The Domain Name is confusingly similar to the trademark owned by the Complainant. By registering the Domain Name that comprises the Complainant's trademark in its entirety, with the mere addition of the Top-Level Domain ("TLD") ".org", the Respondent has created a Domain Name that is confusingly similar to the Complainant's trademark. Therefore, the Domain Name could be considered virtually identical and/or confusingly similar to the Complainant's trademark. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Domain Name was registered and is being used in bad faith. The current inactive use of the Domain Name does not prevent a finding of registration and use in bad faith. Thus, the Respondent's registration and use of the Domain Name constitutes bad faith registration and use under the Policy, and the Complainant requests transfer of the Domain Name.

B. Respondent

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

6. Discussion and Findings

The burden for the Complainant under paragraph 4(a) of the Policy is to prove:

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

The Complainant must prove in this administrative proceeding that each of the aforementioned three elements is present in order to obtain the transfer of the Domain Name.

In accordance with paragraph 14(a) of the Rules, if the Respondent does not submit a Response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the Complaint. Since the Respondent did not respond to this Complaint, the supported facts regarding the use and reputation of the Complainant's mark taken from the Complaint are generally accepted as true in the circumstances of this case.

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 Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1

The Panel finds the entirety of the mark is reproduced within the Domain Name. Accordingly, the Domain Name is identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, 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.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Name. The Panel considers that the record of this case reflects that (1) the Respondent has not used, nor has it made demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering of goods or services, (2) there is no evidence that the Respondent has been commonly known by the Domain Name, (3) the Respondent is not making a

legitimate noncommercial or fair use of the Domain Name, and (4) the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the Domain Name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name.

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

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the record, the Panel finds the non-use of the Domain Name does not prevent a finding of bad faith in the circumstances of this proceeding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (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. [WIPO Overview 3.0](#), section 3.3. Having reviewed the record, the Panel notes that the Respondent, once the privacy cloak was lifted, had listed as an apparent business name "Allied Universal". This supports the Panel's finding that the Respondent was aware of the Complainant and its well-known trademark when registering the Domain Name, and finds that in the circumstances of this case the passive holding of the Domain Name does not prevent a finding of bad faith under the Policy.

The Panel finds that when considering the balance of probabilities, it is more likely than not that the Respondent had actual knowledge of the ALLIED UNIVERSAL trademark and that registration of the Domain Name would be identical or confusingly similar to the Complainant's trademark. Based on the evidence provided, the Panel finds that it is implausible that there could be any legitimate use of the inherently misleading Domain Name. In light of and on balance of the facts set forth within this Complaint, the Panel finds that it is more likely than not that the Respondent knew of and targeted the Complainant's trademark. The Panel agrees with the Complainant's contention that indeed, the Respondent's purpose in registering the Domain Name was probably to capitalize on the reputation of the Complainant's trademarks.

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

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 <allied-universal.org> be transferred to the Complainant.

/Ellen B Shankman/

Ellen B Shankman

Sole Panelist

Date: August 22, 2023