

ADMINISTRATIVE PANEL DECISION

Accenture Global Services Limited v. wang kang hui and Foster William Case No. D2023-3566

1. The Parties

The Complainant is Accenture Global Services Limited, Ireland, represented by McDermott Will & Emery LLP, United States of America (“United States”).

The Respondents are wang kang hui, China; and Foster William, Albania.

2. The Domain Names and Registrar

The disputed domain names <accenture-app.cc>, <accenture-app.com>, <accenture-app.top>, <Accenture-app.vip>, <accenture-app.xyz>, and <accenturen.com> are registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on August 24, 2023. On August 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On August 25, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrants and contact information for the disputed domain names which differed from the named Respondents (Redacted for privacy / Redacted for privacy; kang hui ke ji) and contact information in the Complaint.

The Center sent an email communication to the Complainant on September 1, 2023, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amended Complaint in English on September 4, 2023.

On September 1, 2023, the Center informed the Parties in Chinese and English, that the language of the registration agreement for the disputed domain names is Chinese. On September 4, 2023, the Complainant requested English to be the language of the proceeding. The Respondents did not submit any comment on the Complainant’s submission.

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 Respondents in English and Chinese of the Complaint, and the proceedings commenced on September 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 27, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on September 28, 2023.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on October 16, 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 registered in Ireland and has used the ACCENTURE mark since 2001 in connection with various services, including management consulting, technology services, and outsourcing services. The Complainant has nearly 740,000 employees worldwide across offices and operations in more than 200 cities in 50 countries. The ACCENTURE mark has also been recognized as a leading global brand by brand consulting companies in the industry (e.g., Interbrand’s Best Global Brands Report since 2002, where it ranked 53rd).

The Complainant provides evidence that it owns an international portfolio of trademark registrations and applications for ACCENTURE. These registrations include, but are not limited to, United States Trademark Registration number 2,665,373 for ACCENTURE, registered on December 24, 2002; and United States Trademark Registration No. 3,091,811 for ACCENTURE, registered on May 16, 2006. The Complainant also has a strong online presence and owns a portfolio of official domain names including <accenture.com>, registered since August 29, 2000.

The disputed domain names were all registered between June 11 and August 4, 2023. The disputed domain names are therefore of a later date than the abovementioned trademarks of the Complainant. The Complainant submits evidence that the disputed domain names previously directed to parked webpages in German inviting Internet users to submit login information, and in the case of <accenturen.com> later also to an active webpage displaying company and employment information about the Complainant. The Complainant also provides evidence that some of the disputed domain names were also associated with phishing messages offering job opportunities with the Complainant. However, the Panel notes that on the date of this Decision, the disputed domain names direct to inactive webpages.

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 disputed domain names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to its registered trademark for ACCENTURE, that the Respondents have no rights or legitimate interests in respect of the disputed domain names, and that the disputed domain names were registered, and are being used in bad faith to divert Internet users to the Respondents’ webpages which request login information from unsuspecting Internet users and seem to be involved in a fraudulent phishing scheme involving fraudulent offers of freelance employment with the Complainant. The Complainant also argues that the Respondents

had or can be expected to have had prior notice of the Complainant's trademarks at the time the disputed domain names were registered, since the Complainant registered its trademarks for ACCENTURE many years prior to the registration of the disputed domain names and since these marks have become well known. The Complainant essentially contends that the Respondents have registered the disputed domain names only to unlawfully trade off the reputation and goodwill of the Complainant's ACCENTURE mark.

The Complainant requests the transfer of the disputed domain names.

B. Respondents

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

6. Discussion and Findings

6.1 Language of the Proceeding

The language of the Registration Agreement for the disputed domain names is Chinese (except for disputed domain name <accenturen.com>, for which the language is English). Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the Registrar provides an English language version of its website, the fact that the Respondents have registered disputed domain names that are nearly identical to the Complainant's English-language company name and trademarks and pair the ACCENTURE trademark with the English word "app" and English-language generic Top-Level Domains ("gTLDs") and the fact that allowing the dispute to proceed in Chinese would arguably give the Respondents an advantage by forcing the Complainant to incur additional costs and expenses in seeking local assistance in China for handling the dispute related to the disputed domain names that are comprised of an English-language trademark.

The Respondents did not make any specific submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time, and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2 Consolidation: Multiple Respondents

The Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties, see [WIPO Overview 3.0](#), section 4.11.2.

As regards common control, the Panel notes that each of the disputed domain names was registered via the same Registrar, namely Gname.com Pte. Ltd., and was registered within a short time span, namely between June 2023 and August 2023. Furthermore, all disputed domain names target the same mark of the Complainant, namely ACCENTURE, and resolved to similar parked pages displaying a greeting in German and requesting Internet users to provide log in information, thereby exposing a pattern. Finally, the disputed domain names <accenturen.com> and <accenture-app.vip> were both used in what appears to be a similar fraudulent phishing scheme involving fraudulent offers of freelance employment with the Complainant. The Panel deducts from these facts that the disputed domain names are likely under common control.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

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 names, [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 disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms, here, respectively "-app" and the letter "n", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 disputed domain names. 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 disputed domain names such as those enumerated in the Policy or otherwise.

Furthermore, the Panel finds that the Complainant sufficiently proves that there is a risk that the disputed domain names were used in a fraudulent phishing scheme involving apparently fraudulent offers of freelance employment with the Complainant.

UDRP panels have 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. [WIPO Overview 3.0](#), section 2.13.1.

However, the Panel notes that on the date of this Decision, the disputed domain names direct to inactive websites. In this regard, the Panel finds that holding a domain name passively, without making any use of it, also does not confer any rights or legitimate interests in the disputed domain names on the Respondent (see in this regard earlier UDRP decisions such as *Bollore SE v. 赵竹飞 (Zhao Zhu Fei)*, WIPO Case No. [D2020-0691](#); and *Vente-Privee.Com and Vente-Privee.com IP S.à.r.l. v. 崔郡 (jun cui)*, WIPO Case No. [D2021-1685](#)).

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

C. Registered and Used in Bad Faith

In the present case, the Panel notes that the Respondent has registered the disputed domain names which are each confusingly similar to the Complainant's intensely used and internationally well known trademark for ACCENTURE (see in this regard also earlier UDRP decisions such as *Accenture Global Services Limited v. ICS Inc. / PrivacyProtect.org*, WIPO Case No. [D2013-2098](#)). The Panel deduces from this fact that by registering the disputed domain names, the Respondent deliberately and consciously targeted the Complainant's prior trademarks for ACCENTURE. The Panel finds that this creates a presumption of bad faith. In this regard, the Panel refers to the [WIPO Overview 3.0](#), section 3.1.4, which states "[p]anel have consistently found that the mere registration 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." Furthermore, the Panel also notes that the Complainant's trademarks for ACCENTURE were registered many years before the registration dates of the disputed domain names. The Panel deduces from these elements that the Respondent knew, or at least should have known, of the existence of the Complainant's trademarks at the time of registering the disputed domain names. In the Panel's view, these elements indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain names in bad faith.

As to use of the disputed domain names in bad faith, the Panel finds that the Complainant sufficiently proves that there is a risk that the disputed domain names were used in a fraudulent phishing scheme involving apparently fraudulent offers of freelance employment with the Complainant.

UDRP panels have held that the use of a domain name for purposes other than to host a website such as phishing purposes as evidenced in this case may constitute bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy.

However, on the date of this Decision, the disputed domain names link to inactive websites.

UDRP 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 disputed domain names 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, see [WIPO Overview 3.0](#), section 3.3. Having reviewed the record, the Panel notes the distinctiveness, intensive use, and international fame of the Complainant’s trademark, the apparently fraudulent use made of the disputed domain names by the Respondent before they were deactivated, the composition of the disputed domain names (each clearly containing the famous ACCENTURE mark in its entirety) and the implausibility of any good faith use to which the disputed domain names may be put and finds that in the circumstances of this case the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy.

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 names <accenture-app.cc>, <accenture-app.com>, <accenture-app.top>, <accenture-app.vip>, <accenture-app.xyz>, and <accenturen.com> be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: October 30, 2023