

ADMINISTRATIVE PANEL DECISION

Savvas Learning Co. LLC v. Wis INC
Case No. D2023-5100

1. The Parties

The Complainant is Savvas Learning Co. LLC, United States of America (“United States”), internally represented.

The Respondent is Wis INC, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <saavasrealize.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 6, 2023. On December 7, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 7, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (John Doe) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 8, 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 amendment to the Complaint on December 8, 2023.

The Center verified that the Complaint together with the amendment to 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 the Respondent of the Complaint, and the proceedings commenced on December 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 9, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 15, 2024.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on January 17, 2024. 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 following facts are undisputed.

The Complainant provides education and learning solutions and, according to its website, is present in 125 countries, serving more than 40 million students.

The Complainant is the owner of various trademarks pertaining to SAVVAS, including the United States Trademark Registration No. 6,843,694 consisting of the word elements SAVVAS REALIZE (stylized), registered September 13, 2022, for goods in classes 41 and 42, claiming first use on May 4, 2020.

The Complainant uses this mark in the United States as well as many other jurisdictions around the world in conjunction with commercial printed material and computer programs.

The Complainant owns the domain name <savvasrealize.com>, registered on August 2, 2019, for one of its websites.

The disputed domain name was registered on June 8, 2020. The disputed domain name resolves to a parked page, including Pay-Per-Click ("PPC") links.

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 name.

Notably, the Complainant contends the following.

The disputed domain name incorporates, nearly in its entirety, SAVVAS trademark while merely adding an additional "a" and omitting an "v" to fully read <saavasrealize.com>. The addition of "a" and the omission of a "v" does not create a distinguishable mark, but rather merely suggests that it is a subdomain of the domain names <savvas.com> and/or <savvasrealize.com> in which Internet users may be taken to the website's content page. The confusion created by the similarities between the disputed domain name and the Complainant's trademark has caused Internet users seeking the Complainant's website but who reach the Respondent's website to mistakenly believe that an affiliation exists between the Complainant and the Respondent when, in fact, no such relationship exists at all.

The Respondent is using the disputed domain name in violation of the Anti-cybersquatting Consumer Protection Act of 1999, which is embodied in 15 U.S. Code § 1125 and the Lanham Act. The Complainant has not authorized the Respondent to use or register the disputed domain name. The Complainant is not affiliated, connected, or associated with the Respondent. The Respondent has no trademark or legal rights, has not and is not commonly known by the trademark and therefore, has no legitimate interest in the disputed domain name.

The Respondent is using the disputed domain name in bad faith in connection with the Complainant's website, which provides reputable learning solutions. The Respondent is intentionally creating confusion as to the source of its disputed domain name presumably for the purpose of commercial gain. The Respondent has undoubtedly registered the disputed domain name to misappropriate the wide recognition the Complainant has created in the SAVVAS brand as an established education publisher and provider. Here,

the Respondent is using such recognition to generate interest in and traffic to its website to commercially benefit from the established SAVVAS brand.

B. Respondent

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

6. Discussion and Findings

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.

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 mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Certainly lacking a response, the panel finds that the disputed domain name consists of a misspelling. 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. [WIPO Overview 3.0](#), section 1.9.

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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed 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 disputed domain name such as those enumerated in the Policy or otherwise.

The Panel refers to its considerations under 6.A. The disputed domain name seems to include an obvious misspelling, which would confirm the lack of a legitimate interest. Furthermore, UDRP panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users. [WIPO Overview 3.0](#), section 2.9.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel refers to its considerations under 6.B.

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.

The disputed domain name was registered after the filing of the Complainant's trademark. In the present case, the Panel notes that given the obvious misspelling of the Complainant's trademark in the disputed domain name, that the Respondent must have registered the disputed domain name having the Complainant and its trademark in mind, and thus the Respondent has registered the disputed domain name to intentionally attempt to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark.

The Panel furthermore notes the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and the Respondent's concealing its identity.

The Panel finds that the Complainant has established the third element of the Policy.

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 <saavasrealize.com> be transferred to the Complainant.

/Willem J. H. Leppink/

Willem J. H. Leppink

Sole Panelist

Date: January 22, 2024