

ADMINISTRATIVE PANEL DECISION

Qualifacts Systems, LLC v. Name Redacted¹ Case No. D2024-0348

1. The Parties

The Complainant is Qualifacts Systems, LLC, United States of America ("U.S."), represented by Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C., U.S.

The Respondent is Name Redacted.

2. The Domain Name and Registrar

The disputed domain name <qualifactshr.com> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 26, 2024. On January 26, 2024, the Center emailed the Registrar a request for registrar verification in connection with the disputed domain name. On January 30, 2024, the Registrar emailed the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (NameCheap, Inc./ Unknown Registrant) and contact information in the Complaint. The Center sent an email to the Complainant on January 30, 2024, 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 January 30, 2024.

The Center verified that the Complaint and its amendment satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for the Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for the Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

¹ The Panel has determined that the disputed domain name was most likely registered by a third party without the involvement of the Respondent. Accordingly, the Respondent's name will be redacted. However, the Panel has attached as Annex 1 to this Decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding and has indicated that Annex 1 to this Decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on January 31, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 20, 2024. The Respondent did not submit any formal response.

The Center received communications from a third party on February 17, 23, and 24, 2024, disclosing that the third party had received the written notice of the proceeding but that the registration of the disputed domain name had been made without their knowledge or authorization by a third party using their contact details. The Center notified the Commencement of Panel Appointment Process on February 23, 2024.

The Center appointed William F. Hamilton as the sole panelist in this matter on March 1, 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 Complainant is a software company that provides behavioral health software for clinical productivity, electronic health record-keeping, virtual care, and billing. It is headquartered in Nashville, Tennessee, and Tampa, Florida, and has employees worldwide. The Complainant serves the needs of more than 2,500 agencies nationwide.

The Complainant is the owner of U.S. Trademark Registration No. 1,684,809 for the mark QUALIFACTS (the "Mark"), registered April 28, 1992, and U.S. Trademark Registration No. 1,689,388 for the mark QUALIFACTS SYSTEMS, registered May 26, 1992.

The Complainant has utilized the Mark since 1989.

The Complainant also advertises and offers its software and services under the Mark through its primary website "www.qualifacts.com".

The disputed domain name does not resolve to an active website. Additionally, Respondent is using the disputed domain in conjunction with the email address "[...].@qualifactshr.com" to send fraudulent emails to Internet users inviting them to interview for fictitious Complainant positions.

The disputed domain name was registered on January 7, 2024. The disputed domain name does not resolve to an active website.

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.

The Complainant asserts the disputed domain name is confusingly similar to the Mark because the disputed domain name is composed by merely adding the term "hr" to the Mark. The Complainant asserts that the Complainant never authorized the Respondent to use the disputed domain name, that the Respondent is not generally known by the disputed domain name, never operated a business under the disputed domain name, and never engaged in any bona fide commercial activity in connection with the disputed domain name. The Complainant asserts that the Respondent knew of the Mark when registering the disputed domain name and used the disputed domain name in connection with an apparent scheme to phish information from persons seeking employment with the Complainant.

B. Respondent

The Respondent did not reply to the Complainant's contentions. However, the Center received communications from a third party on February 17, 23, and 24, 2024, disclosing that this third party had received the written notice of the proceeding but that the registration of the disputed domain name had been made without their knowledge or authorization by a third party using their contact details.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel that:

- (i) the disputed 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 disputed domain name; and,
- (iii) the disputed domain name was 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 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 entirety of the mark is reproduced 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. Although the addition of other terms or abbreviations, here, "hr" (an abbreviation for "human relations"), may bear on assessment of the second and third elements, the Panel finds the addition of the abbreviation "hr" does not prevent a finding of confusing similarity between the disputed domain name and the Mark. [WIPO Overview 3.0](#), section 1.8.

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. To the contrary, the evidence provided by the Complainant indicates that the Respondent has utilized the disputed domain name as part of a scheme to impersonate the Complainant employees and trick persons into believing they were interacting

with the Complainant's representatives. [WIPO Overview 3.0](#), section 2.13.1. Such illegal use of the disputed domain name demonstrates the Respondent's lack of rights or legitimate interests in the disputed domain name.

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

C. Registered and Used in Bad Faith

Panels have held that the use of a domain name for illegal activity such as the fraudulent impersonation of Complainant's employees with the apparent goal of misleading persons who believe they are seeking employment with the Complainant as is the case here constitutes 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 name constitutes bad faith under the Policy.

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 <qualifactshr.com> be transferred to the Complainant.

/William F. Hamilton/

William F. Hamilton

Sole Panelist

Date: March 15, 2024