

ADMINISTRATIVE PANEL DECISION

Graphic Solutions Group, Inc. v. Gerard Watons

Case No. D2024-0369

1. The Parties

Complainant is Graphic Solutions Group, Inc., United States of America (“United States”), represented by Ray Law Firm, PLLC, United States.

Respondent is Gerard Watons, United States.

2. The Domain Names and Registrar

Each of the disputed domain names, <gogsg-groups.com> and <gogsg-groups.net>, is registered with NameSilo, LLC (“Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (“Center”) on January 26, 2024. On January 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with each of the disputed domain names. On January 29, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for each disputed domain name that differed from that in the Complaint (the Complaint identified the registrant as Redacted for Privacy, PrivacyGuardian.org LLC). The Center sent an email communication to Complainant on January 30, 2024, providing registrant and contact information disclosed by the Registrar and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on February 1, 2024. Accordingly, the Panel determines that “Gerard Watons” is the appropriate Respondent.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (“Policy”), the Rules for Uniform Domain Name Dispute Resolution Policy (“Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (“Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on February 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 25, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on February 28, 2024.

The Center appointed Debra J. Stanek as the sole panelist in this matter on March 7, 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

Complainant owns a United States registration for the mark GSG, Reg. No. 2,258,870, for services consisting of “promoting the sale of goods of others;” those goods include commercial ink jet printers, cutters, scanners, inks, and related items. The GSG mark was registered in 1999.

Complainant also uses its GSG mark in the domain name of its website, <gogsg.com>, as well as in the domain names <gogsg-groups.com> and <gogsg-groups.net>.

Each of the disputed domain names was created on January 23, 2024. Complainant has provided screenshots showing that access to the websites associated with each domain name was blocked by third party cybersecurity software. At the time of this decision, neither directs to a website.

According to the Complaint, Respondent used the name of one of Complainant’s employees in an email address using each of the disputed domain names, then used the email addresses to send correspondence to Complainant’s customers purporting to change Complainant’s banking information for receiving payments.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Complainant has provided copies of the communications sent to its customers each using an email address that includes one of the disputed domain names. It includes a signature block identifying an actual employee of Complainant, identifying the employee as a “Credit Analyst,” and using Complainant’s street address. The message purports to provide “updated” banking information for receiving payments, including a cover sheet that bears Complainant’s logo titled “ACH Instructions,” a letter from a large national bank “confirming” the banking information, and a United States Internal Revenue Service Form W-9, purportedly signed by the employee and providing a federal taxpayer identification number for Complainant.

Complainant’s Vice President of Finance provided an affidavit attesting to Complainant having received inquiries about Respondent’s communications from at least ten customers.

In addition, Complainant has provided evidence that Respondent’s contact information is false. Respondent’s telephone number (as attested in an affidavit by one of Complainant’s administrative assistants) consistently led to a “your call did not go through” message. A message to Respondent’s email address resulted in a “mailbox unavailable” error. Respondent’s street address was not found in the United States Postal Service online zip code database.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Under paragraph 3(c) of the Rules, a complaint may relate to more than one domain name, provided that each is registered by the same domain name holder. That is the case here and as noted above, the Panel finds that the appropriate Respondent is Gerard Watons.¹

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing (or threshold) requirement. The test for confusing similarity under the first element therefore involves a reasoned but relatively straightforward comparison between Complainant's trademark and each disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

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.

Neither disputed domain name is identical to Complainant's mark; whether it is nonetheless confusingly similar for purposes of the first element, presents, in the Panel's view, a somewhat close question. However, on balance, in light of the purpose of this element, the Panel finds that the additions (the terms "go" and "-groups") do not preclude a finding of confusing similarity, see [WIPO Overview 3.0](#), section 1.8. Here, the entire GSG mark is reproduced within each disputed domain name and is recognizable, following the word "go" and preceding "-groups." Further, Complainant has provided evidence that it, in fact, it uses its GSG mark preceded by the term "go" in its domain name, <gogsg.com>, as well as using "gogsg" and followed by "-group" in connection with various email addresses, which reinforces the Panel's conclusion that "gogsg" and "gogsg-groups" will be understood as "go GSG groups" and may even function as source identifiers. See WIPO Overview sections 1.3 and 1.7.

For the foregoing reasons, the Panel finds that the addition of "go" and "-groups" to each disputed domain name does not prevent a finding of confusing similarity for the purposes of the first element. [WIPO Overview 3.0](#), sections 1.7 and 1.8. Accordingly, each disputed domain name is confusingly similar to the mark for the purposes of the Policy.

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 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 a 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in each of the disputed domain names. Complainant has provided credible evidence that Respondent used them to impersonate Complainant's employee to obtain payments through fraud. The use of a domain name for such activity does not confer rights or legitimate

¹ In light of Respondent's failure to respond in combination with the evidence discussed below, the Panel draws appropriate adverse inferences, as permitted by the Rules, section 14.b.

interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. Respondent has not rebutted Complainant's prima facie showing and has not come forward with any evidence or response.

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.

Complainant's evidence supports the registration and use of each disputed domain name as part of a scheme to defraud. The Panel finds that Respondent actually knew of Complainant's GSG mark and adopted and used it intending recipients believe that its communications were from Complainant.

In the present case, having reviewed the record, the Panel finds that the use of each disputed domain name to hold Respondent out as a representative of Complainant constitutes registration and use in bad faith under the Policy. [WIPO Overview 3.0](#), section 3.4.

The Panel finds that 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 each disputed domain name, <gogsg-groups.com> and <gogsg-groups.net>, be transferred to Complainant.

/Debra J. Stanek/

Debra J. Stanek

Sole Panelist

Date: March 14, 2024