

ADMINISTRATIVE PANEL DECISION

Stripe, Inc. v. jerry dawson
Case No. D2024-0569

1. The Parties

The Complainant is Stripe, Inc., United States of America (“United States”), represented by Elster & McGrady LLC, United States.

The Respondent is jerry dawson, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <bbp0s.com> is registered with Gransy, s.r.o. d/b/a subreg.cz (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 7, 2024. On February 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 9, 2024, 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 (Not Disclosed Not Disclosed / My Domain Provider) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 14, 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 amended Complaint on February 15, 2024. Further to the Center’s invitation to rectify certain information in the Complaint, the Complainant filed a second amended Complaint on February 22, 2024.

The Center verified that the Complaint together with the amended Complaints 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 February 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 17, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 18, 2024.

The Center appointed James Bridgeman SC as the sole panelist in this matter on March 26, 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 designs and manufactures electronic payment solutions including mobile POS (mPOS) devices, software and hardware, on which it uses the BBPOS mark and has provided evidence of its ownership of International trademark BBPOS, registration number 1266894, registered on July 10, 2015, for goods and services in classes 9 and 42; and

United States registered trademark and service mark BBPOS, registration number 5,380,951, registered on the Principal Register on January 16, 2018, for goods and services in international classes 9, and 42.

The Complainant has an established Internet presence and maintains a number of websites, including at “www.stripe.com” and at “www.bbpos.com” on which it provides its electronic payment solutions to its customers.

The disputed domain name was registered on December 11, 2023, and has been used to create an email account from which the Respondent, falsely presenting itself as a BBPOS Limited of Hong Kong, China, has purported to send out a phishing message to an unsuspecting third party requesting payment on foot of a false invoice.

There is no information available about the Respondent, except for that provided in the Complaint, as amended, the Registrar’s Whois for the disputed domain name and the information provided by the Registrar to the Center in response to the request for details of the registration of the disputed domain name for the purpose of this proceeding.

5. Parties’ Contentions

A. The 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 that that in 2022, it acquired ownership of the abovementioned trademark registrations when it acquired the corporation that had used BBPOS mark since 2008 in its business as a designer and developer of very successful mPOS devices, card-readers and hardware.

The BBPOS branded software and hardware is now used by the Complainant providing electronic solutions to millions of businesses in over 40 countries, including the United States, on its websites at “www.stripe.com” on which it publishes its documentation, libraries, and API resources (among other things and on its website at “www.bbpos.com” which is used to provide electronic payment solutions to its customers.

The Complainant alleges that the disputed domain is confusingly similar to the BBPOS mark because it is almost identical to the mark with only the letter “o” replaced by the numeral “0”. See *Dr. Ing. H.c.F. Porsche AG v. Registration Private, Domains By Proxy, LLC / Jaya Yella*, WIPO Case No. [D2017-0044](#) (March 16, 2017) (The panel held that the domain name at issue was confusingly similar to the complainant’s mark when the domain name consisted of a sign highly similar to the complainant’s mark PORSCHE and the generic top-Level Domain (gTLD) “.com” with a number 0 instead of the letter “o”. The domain name read naturally by the human eye as “porsche.com” and so was likely to be mistaken for the complainant’s PORSCHE trade mark).

Additionally, it is argued that it is a well-established practice to disregard the gTLD, in this case, “.com”, when assessing whether a domain name is identical or confusingly similar to the mark in issue.

The Complainant next alleges that the Respondent has no rights or legitimate interests in the disputed domain name, arguing that the Respondent has never been commonly known by the BBPOS mark, nor any variation thereof, and has never used any trademark or service mark similar to the disputed domain name by which it may have come to be known.

In the Whois database, the Respondent has referred to itself as “Not Disclosed Not Disclosed / My Domain Provider,” and the Registrar has confirmed that the Respondent, as registrant of the disputed domain name, is “jerry dawson”. Citing *Alstom v. Yulei*, WIPO Case No. [D2007-0424](#) (July 11, 2007) (finding that respondent had not established rights or legitimate interests in the domain name at issue where there was no indication that the respondent was commonly known by the <alstom-china.com> domain name and/or was using the domain name in connection with a bona fide offering of goods or services).

Additionally, the Complainant avers that it has not granted the Respondent any license, permission, or authorization by which it could own or use any domain name registrations, which are confusingly similar to any of the BBPOS mark. See *Nokia Corp. v. Nokiagirls.com*, WIPO Case No. [D2000-0102](#) (April 18, 2000) (finding absence of license permitting the respondent to use the complainant’s trademark in the domain name at issue as evidence of the respondent’s illegitimate interests).

It is further alleged that the Respondent has never operated any bona fide or legitimate business under the disputed domain name and is not making a protected noncommercial or fair use of the disputed domain. Instead, as shown in copy of redacted email correspondence between the Respondent and Complainant’s unsuspecting customer, which is exhibited in an annex to the Complaint, shows that Respondent used the disputed domain name for a phishing scheme.

The Complainant argues that such use of the disputed domain name to commit phishing and fraud does not convey any rights or legitimate interests to the cybersquatter and cannot be considered a *bona fide* offering of goods or services or legitimate noncommercial use. See *Edwards Limited v. Ant Thy*, WIPO Case No. [D2023-3164](#) (August 29, 2023) (“The Domain Name has been used in a fraudulent phishing attempt via email using the Complainant’s mark spelt correctly in its logo form as a masthead, the name of the Complainant and one of its employees, and its real world contact details and address to try to divert funds meant for the Complainant. This is fraudulent and confusing. As such, it cannot amount to the bona fide offering of goods and services or a legitimate noncommercial or fair use.”)

The Complainant argues that this Panel must conclude that the disputed domain was registered and is being used with actual knowledge of the Complainant and its well-known BBPOS mark; and that there is no conceivable reason for the Respondent to have registered the disputed domain name other than to trade off the Complainant’s reputation and goodwill in the mark and to disrupt the Complainant’s business. See *Stripe, Inc. v. w smart, AG and 杨坤 (yang kun)*, WIPO Case No. [D2021-2459](#) (October 12, 2021) (finding bad faith use and registration where Respondents chose to register and use the disputed domains <stripe.fit> and <stirpe.info>, which are identical to the STRIPE marks, with intent to ride on the goodwill of the STRIPE marks in an attempt to exploit, for commercial gain, Internet users destined for Complainant).

Finally, it is contended that while the Respondent’s use of a privacy service to conceal its identity, standing alone, may not be sufficient evidence of bad faith, it may nonetheless be taken into consideration, because hiding one’s identity while using the BBPOS mark in the disputed domain name in efforts to create a false connection between the Respondent and the Complainant in order to conduct financial crimes against the Complainant’s customers should be considered another evidence of bad faith registration and use.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy requires the Complainant to establish that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been 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 (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.

Furthermore, 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 Respondent has never been commonly known by the BBPOS mark, nor any variation thereof, and has never used any trademark or service mark similar to the disputed domain name by which it may have come to be known; the Complainant avers that it has not granted the Respondent any license, permission, or

authorization by which it could own or use any domain name registrations, which are confusingly similar to any of the BBPOS mark; use of the disputed domain name to commit phishing and fraud does not convey any rights or legitimate interests to the cybersquatter and cannot be considered a bona fide offering of goods or services or legitimate noncommercial use.

Panels have held that the use of a domain name for illegal activity here, claimed phishing, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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

C. Registered and Used in Bad Faith

Not only is the disputed domain name almost identical to Complainant's BBPOS mark, by substituting the numerical zero, for the letter "o" in the trademark, on the balance of probabilities, the Respondent was not only aware of the Complainant's BBPOS mark and the services it offers, the registration of the misspelling of the mark in this manner was an act of typosquatting by the registrant.

This Panel finds on the balance of probabilities therefore that the disputed domain name was chosen and registered in bad faith to take predatory advantage of the Complainant's reputation and goodwill in the BBPOS mark.

The exhibited email correspondence shows that the Respondent has used the disputed domain name to establish an email account from which the Respondent has sent emails to a third party purporting to impersonate the Complainant, intending to deceive the recipient, with a request to make a payment on a "new" invoice into the Complainant's bank account in the United States. The Complainant has confirmed that the email was an attempt by the Respondent to deceive the recipient.

Such use of the disputed domain name as an instrument of fraud, the attempted phishing by the Respondent constitutes use in bad faith for the purposes of the Policy.

Panels have held that the use of a domain name for illegal activity here, phishing, or other types of fraud, 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 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 <bbp0s.com> be transferred to the Complainant.

/James Bridgeman SC/

James Bridgeman SC

Sole Panelist

Date: April 2, 2024