

ADMINISTRATIVE PANEL DECISION

Galgotias University and Smt. Shakuntla Educational and Welfare Society v.
wang dong
Case No. D2024-0768

1. The Parties

The Complainants are Galgotias University and Smt. Shakuntla Educational and Welfare Society, India (collectively, the “Complainant”), represented by Scriboard Advocates & Legal Consultants, India.

The Respondent is wang dong, Thailand.

2. The Domain Name and Registrar

The disputed domain name <galgotiasuniversity.com> is registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 20, 2024. On February 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 22, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 1, 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 March 2, 2024.

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 Respondent of the Complaint, and the proceedings commenced on March 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 26, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 28, 2024.

The Center appointed Ingrīda Kariņa-Bērziņa as the sole panelist in this matter on April 12, 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 Galgotias University is a private university in Uttar Pradesh, India, established in 2011. It is sponsored by the Complainant Shakuntala Educational and Welfare Society, which is an educational organization established in 1998. The Complainant Galgotias University is the proprietor of several trademark registrations, including the following:

- Indian Trademark Registration No. 1815301 for GALGOTIAS (word mark), registered on May 6, 2009, for goods in class 9;
- Indian Trademark Registration No. 3690643 for GALGOTIAS UNIVERSITY (device mark), registered on November 29, 2017, for goods in class 41.

The Complainant operates its website at the domain name <galgotiasuniversity.edu.in>.

The disputed domain name was registered on June 22, 2022. At the time of this Decision, it did not resolve to an active website. The record contains evidence indicating that it previously resolved to a website with what appear to be colorful advertisements or notices, as well as sexually explicit images, in Chinese.

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 that Galgotias University is a highly rated academic institution that has taught over 15,000 students from around the world. The brands GALGOTIAS and GALGOTIAS UNIVERSITY are famous in India and internationally and have been promoted online and featured in the media. The disputed domain name is identical to the Complainant's mark and to the Complainant's domain name at <galgotiasuniversity.edu.in>. The Respondent has no proprietary or contractual rights in any registered or common law trademark corresponding in whole or in part to the disputed domain name. Due to the marks' fame, the Respondent was aware of the Complainant. Upon visiting the website to which the disputed domain name resolves, virulent files including trojans and other malicious software are attempted to be downloaded onto the visitors' devices. The Respondent provided false contact information.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the UDRP requires the Complainant to make out all three of the following:

- (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 Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

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 entirety of the Complainant’s GALGOTIAS UNIVERSITY mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 notes there is no evidence that the Respondent has used the disputed domain name in connection with a bona fide offering of goods or services, nor that the Respondent has been commonly known by the disputed domain name. There is no evidence that the Respondent has made a legitimate noncommercial or fair use of the disputed domain name. The evidence of use at the time of the filing of the Complaint, comprising a website featuring advertising or notices, does not support an inference that the Respondent was engaged in a legitimate business connected to the disputed domain name. Under these circumstances, the Panel finds that such use does not establish rights or legitimate interests. [WIPO Overview 3.0](#), section 2.9. Moreover, the composition of the disputed domain name, which is identical to the Complainant’s GALGOTIAS UNIVERSITY trademark, carries a high risk of implied affiliation to the Complainant that cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1.

Furthermore, Panels have held that the use of a domain name for illegal activity (here, claimed distribution of malware) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. The Respondent has not come forward with any evidence to dispute the Complainant’s allegations.

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.

In the present case, the Panel notes that the Respondent intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark. The disputed domain name was registered more than a decade after the Complainant first registered its GALGOTIAS and GALGOTIAS UNIVERSITY trademarks. The disputed domain name is identical to the Complainant's mark and therefore implies a connection to the Complainant. Under these circumstances, the Panel finds that the disputed domain name was registered in bad faith. [WIPO Overview 3.0](#), section 3.1.

Panels have held that the use of a domain name for illegal activity (here, claimed distribution of malware) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel notes that the Complainant has provided an undated screen capture of a site showing what appear to be notices or advertisements including sexually explicit images, but there is no evidence to support the allegations of distribution of malware. In any case, the use evidenced by the Complainant would amount to use in bad faith under the Policy. The fact that the disputed domain name does not currently resolve to an active website does not prevent a finding of bad faith. [WIPO Overview 3.0](#), section 3.3. On balance of probabilities and considering the overall circumstances presented in 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 <galgotiasuniversity.com> be transferred to the Complainant.

/Ingrīda Kariņa-Bērziņa/

Ingrīda Kariņa-Bērziņa

Sole Panelist

Date: April 26, 2024