

ADMINISTRATIVE PANEL DECISION

Graphic Solutions Group, Inc. v. Frank Henry
Case No. D2024-0928

1. The Parties

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

The Respondent is Frank Henry, United States.

2. The Domain Name and Registrar

The disputed domain name <gogsg.org> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 1, 2024. On March 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 4, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from the named Respondent (Redacted for Privacy, PrivacyGuardian.org LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 5, 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 7, 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 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 11, 2024.

The Center appointed Steven Auvil as the sole panelist in this matter on April 18, 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

According to the Complaint, the Complainant, Graphic Solutions Group, Inc., is a Texas corporation in the digital printing industry. The Complainant has used the GSG mark since 1997.

According to the Complaint, the Complainant owns trademarks and service marks in connection with the GSG brand, including, United States Registration No. 2258870 (registered July 6, 1999). The Complainant also owns the domain name <gogsg.com>, which it uses for its website.

The disputed domain name <gogsg.org> was registered on February 26, 2024. According to the Complaint, the Respondent uses the Complainant's GSG mark in the disputed domain name <gogsg.org>, along with email addresses of the Complainant's agents except with the disputed domain name substituted for the Complainant's domain name <gogsg.com>. According to the Complaint, the disputed domain name resolves to a website that displays no active content.

According to the Complaint, the Respondent is using the disputed domain name to falsely impersonate the Complainant's employees and collect financial information.

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 the disputed domain name is confusing similar to its GSG mark because the disputed domain name incorporates the entirety of the Complainant's GSG mark and the only difference between the Complainant's domain name <gogsg.com> and the disputed domain name <gogsg.org> is that the disputed domain name incorporates the generic Top-Level Domain ("gTLD") ".org" instead of ".com". The Complainant argues that disregarding the gTLD, the Complainant's domain name and the disputed domain name are identical and confusing similar.

The Complainant also asserts that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant contends that the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services and the webpage for which the disputed domain name resolves shows no offering of any goods, services, or any useful information. Further, the Complainant argues that the Respondent is not commonly known by the disputed domain name and that the Respondent has tried to hide its true identity and is not commonly known at all.

The Complainant also alleges that the Respondent registered the disputed domain name in bad faith with the intent to mislead and or divert consumers and to tarnish the Complainant's trademarks and service marks. Specifically, the Respondent, within hours of registering the disputed domain name, immediately contacted the Complainant's customers via email and falsely impersonated employees of the Complainant. The emails are purported to be authored by an actual employee of the Complainant, to the extent of including the employee's actual first and last name and including the physical address of the Complainant in an attempt to illegally divert payments made by customers of the Complainant to a bank account that, upon information and belief, belongs to the Respondent.

The Complainant further asserts that the Respondent registered and used the disputed domain name in bad faith, as the Respondent has used the disputed domain name to disrupt the Complainant's business by attempting to deceive its customers into thinking they were dealing with the Complainant and should make their next payment to a bank account that did not belong to the Complainant. Further, the Complainant alleges that the Respondent intentionally attempted to attract for commercial gain Internet users and customers of the Complainant by creating a likelihood of confusion with the Complainant's mark as to the source and affiliation of the disputed domain name. The Complainant further alleges that the Respondent stole the identities of some of the Complainant's employees and contacted the Complainant's customers to provide "new" bank account information to be used in transmitting future payments made by those customers of amounts owed to the Complainant, constituting bad faith.

The Complainant requests that the disputed name be transferred to the Complainant.

B. Respondent

The Respondent did not file a Response to the Complainant's contentions.

6. Discussion and Findings

According to 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." Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following to obtain relief:

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

In view of the Respondent's failure to submit a Response, the Panel is entitled to accept as true the allegations set forth in the Complaint, unless the evidence is clearly contradictory, and to derive reasonable inferences from the evidence presented. See *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#).

Based on the foregoing guidance, the Panel makes the following findings and conclusions based on the allegations and evidence contained in the Complaint and reasonable inferences drawn from the evidence presented.

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 evidence submitted by the Complainant supports the conclusion that 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 Complainant owns the United States service mark registration for GSG and several other trademark registrations that include the term "gsg", the earliest of those registered on July 6, 1999. The Complainant has continuously used the GSG Mark since July 7, 1997, further establishing common law rights in the Mark.

As set forth in [WIPO Overview 3.0](#), section 1.7, when the entirety of a mark is reproduced within the disputed domain name, or “at least a dominant feature of the relevant mark is recognizable in the domain name”, the disputed domain name is deemed confusingly similar to the mark for the purposes of the Policy. Further, section 1.8 of [WIPO Overview 3.0](#) states that “[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element”.

Here, the entirety of the mark is reproduced within the disputed domain name with the addition of the term “go”, and gTLD “.org”. Although the addition of the term “go” may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8; see also *Graphic Solutions Group, Inc. v. Name Redacted*, WIPO Case No. [D2022-4168](#).

Further, as set forth in section 1.11.1 of [WIPO Overview 3.0](#), the applicable gTLD (e.g., “.com”, “.site”, “.info”, “.shop”) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. As such, the use of “.org” in the disputed domain name has no bearing on establishing identity or confusing similarity here. See *Calzaturificio Casadei S.p.A. v. Nancy Salvaggio*, WIPO Case No. [D2019-2329](#); *Ally Financial Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-2037](#).

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.

The Complainant has not licensed or otherwise authorized the Respondent’s use of the GSG mark as a domain name, nor does the Complainant have any affiliation, association, sponsorship, or connection with the Respondent.

Further, panels have held that the use of a domain name for illegal activity here, claimed as applicable to this case, phishing and or impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. Here, following the registration of the disputed domain name, the Respondent contacted the Complainant’s customers via email in the United States, and falsely impersonated employees of the Complainant in an illegal effort to divert money from the Complainant for services it provided to customers.

The Panel therefore 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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1. Section 3.2.1 of [WIPO Overview 3.0](#) provides that “[p]articular circumstances panels may take into account in assessing whether the respondent's registration of a domain name is in bad faith include: (i) the nature of the domain name (e.g., a typo of a widely-known mark, or a domain name incorporating the complainant's mark plus an additional term such as a descriptive or geographic term, or one that corresponds to the complainant's area of activity or natural zone of expansion) [...] (vi) a clear absence of rights or legitimate interests coupled with no credible explanation for the respondent's choice of the domain name, or (viii) other indicia generally suggesting that the respondent had somehow targeted the complainant”.

In the present case, the Panel notes that the Respondent copied the widely known GSG Mark and included the term “go” in the disputed domain name. The Respondent lacks any rights or legitimate interests in the disputed domain name and has no provided no credible explanation for its choice of domain name. The Panel also observes that disregarding the gTLD, the disputed domain name is identical to the Complainant's domain name.

Moreover, the evidence reflects that the Respondent engaged in illegal acts, including impersonating Complainant's agents, and using the disputed domain name to mislead the Complainant's customers and cause them to divert payments for services away from the Complainant. This is evidence of bad faith.

Other panels have also held that the use of a domain name for illegal activity, such as phishing and impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record in the present case, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel therefore 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 <gogsg.org> be transferred to the Complainant.

/Steven Auvil/

Steven Auvil

Sole Panelist

Date: May 2, 2024