

ADMINISTRATIVE PANEL DECISION

Substack, Inc. v. Julie Fertilier
Case No. D2024-1624

1. The Parties

The Complainant is Substack, Inc., United States of America, represented by Rosen, Wolfe & Hwang, United States of America.

The Respondent is Julie Fertilier, Neuilly-sur-Seine, France.

2. The Domain Names and Registrar

The disputed domain names <substack-com.com> and <substack.support> are registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 18, 2024. On April 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On April 19, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (DOMAIN ADMINISTRATOR) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 2, 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 May 2, 2024.

The Center verified that the Complaint together with the amendment to the 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 May 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 23, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 28, 2024.

The Center appointed Andrew Brown K.C. as the sole panelist in this matter on June 3, 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 company headquartered in California, United States of America (US). It is the registrant and operator of the website “www.substack.com” and provider of a subscription media platform known as the Substack Platform. This platform hosts publications with more than 35 million combined subscriptions.

The Complainant is the owner of registrations for the SUBSTACK trademark. The relevant registrations (the SUBSTACK Trademark) are:

Country	Number	Mark	Registration Date	Class
United States of America	5,554,882	SUBSTACK	September 4, 2018	42
United States of America	7,126,577	SUBSTACK	August 1, 2023	9, 42
United States of America	6,846,016	Logo (stylized bookmark)	September 13, 2022	42

The disputed domain name <substack.support> was registered by the Respondent on March 25, 2024. The disputed domain name <substack-com.com> was registered by the Respondent on February 16, 2024. The disputed domain name <substack-com.com> resolved to a website that featured the Complainant’s SUBSTACK Trademark. The disputed domain name <substack.support> redirected to the disputed domain name <substack-com.com>.

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 names.

Notably, the Complainant contends that the disputed domain names <substack.support> and <substack-com.com> are identical to its SUBSTACK Trademark in which it claims rights. It asserts that its trademark is famous and that its services under the SUBSTACK Trademark are globally prominent and have been widely and frequently reported on in the mainstream press for many years.

The Complainant states that the Respondent has no rights or legitimate interests in the disputed domain names. It further states that the Respondent registered the disputed domain names years after the first registration of the Complainant’s SUBSTACK Trademark in the US in September 2018.

Finally, the Complainant asserts that the disputed domain names were registered and are being used in bad faith. The Complainant states that use of the disputed domain names for phishing purposes indicates that the Respondent was fully aware of the Complainant’s SUBSTACK Trademark and its logo mark.

Further, it states that the Respondent registered the disputed domain names intentionally for the purpose of obtaining sensitive log-in information from users of the Complainant’s services.

The Complainant states that the Respondent’s actions in creating a deceptive duplicate copy of the Complainant’s web page is sufficient to evidence the intentionality required by paragraph 4(b) of the Policy. Further, the Respondent’s use of the disputed domain names for phishing purposes inherently relies on

deceptive use of the Complainant's trademark to create confusion about the source of the web page or communication. This is claimed to be consistent with evidence of bad faith as set out in paragraph 4(b)(iv) of the Policy.

B. Respondent

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

6. Discussion and Findings

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.

In the case of <substack.support> the entirety of the SUBSTACK Trademark is reproduced within the disputed domain name. Accordingly, that disputed domain name is identical to the Complainant's trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

In the case of <substack-com.com >, the Complainant's SUBSTACK Trademark is entirely recognizable within the disputed domain name. The duplicative additional "-com" before ".com" does not alter this in anyway. Accordingly, the disputed domain name is confusingly similar to the Complainant's SUBSTACK trademark 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 names. 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 names such as those enumerated in the Policy or otherwise.

The Complainant submitted evidence showing that the disputed domain name <substack.support> was used to send emails to users of the Complainant's Substack Platform, requesting that the user verify account

information. Panels have held that the use of a domain name for illegal activity such as 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

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 finds that the disputed domain names were registered in bad faith for the following reasons:

- (a) The Panel finds that the Complainant's SUBSTACK Trademark has an established reputation and is well-known. It has achieved this level of consumer awareness before the dates of registration of the two disputed domain names in February and March 2024.
- (b) The Respondent clearly knew of the Complainant's SUBSTACK Trademark when registering the disputed domain names. As discussed in the next section, this is evidenced by the fact that shortly after registration of the disputed domain names, the Respondent provided a website at <substack-com.com> designed to resemble the log-in page of the SUBSTACK Platform. This reproduced the Complainant's registered stylized bookmark logo trademark, as well as making use of the trademark SUBSTACK. Further, the disputed domain name <substack.support> redirected to the disputed domain name <substack-com.com> which continued to provide a deceptive copy of the Complainant's SUBSTACK Platform webpage featuring the Complainant's SUBSTACK trademark and its registered stylized bookmark logo trademark.

The Panel is also satisfied that the Respondent is using the disputed domain names in bad faith for the following reasons:

- (a) As just noted, the Complainant has provided evidence that both the disputed domain names were used to attract or direct Internet users to pages which were made to appear identical to the Complainant's original SUBSTACK website. The Panel is satisfied that Internet users will be confused into thinking that these pages are connected with or provided by the Complainant when this is not the case.
- (b) Further, the Panel is satisfied that the Respondent registered and used the disputed domain names to intentionally attract for commercial gain and to deceive Internet users by phishing, so as to obtain sensitive log-in information in relation to the Complainant's genuine website.
- (c) The Panel is also entitled to draw and does draw adverse inferences from the failure of the Respondent to respond to the Complaint and the factual allegations made by the Complainant.

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 names <substack-com.com> and <substack.support> be transferred to the Complainant.

/Andrew Brown K.C./

Andrew Brown K.C.

Sole Panelist

Date: June 17, 2024