

ADMINISTRATIVE PANEL DECISION

Cyient Limited v. Mohammed Rayhan Sufi, Brandvertise Media Private Limited

Case No. D2024-1817

1. The Parties

The Complainant is Cyient Limited, India, represented by Saikrishna & Associates, India.

The Respondent is Mohammed Rayhan Sufi, Brandvertise Media Private Limited, India.

2. The Domain Name and Registrar

The disputed domain name <cyientax.com> is registered with Hostinger Operations, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 30, 2024. On May 1, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 2, 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 (Privacy Protect, LLC) 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 amended Complaint on May 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 May 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 27, 2024. The Respondent sent several email communications to the Center on May 2, May 6 and May 30, 2024. Accordingly, the Center notified the Parties’ Commencement of Panel Appointment Process on May 30, 2024.

The Center appointed Shwetasree Majumder 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 in the business of providing engineering and technology-based services and solutions and is based in India. The Complainant offers these services under the mark CYIENT and other CYIENT formative marks such as INTELLICYIENT and CYIENTIFIQ. The Complainant owns registrations for its mark CYIENT in several countries in the world, details of few are as below:

- United States of America (“US”) Registration No. 5042987 for CYIENT, registered on September 13, 2016;
- Indian Registration No. 2776066 for CYIENT, registered on July 17, 2014; and
- Indian Registration No. 5152065 for CYIENT, registered on September 28, 2021

The Complainant’s business websites are at “www.cyient.com” and “www.cyient.in”. The domain names <cyient.com> and <cyient.in> were first registered on December 12, 2013, and March 27, 2014, respectively.

According to the Whois records, the disputed domain name was registered on April 24, 2023. At the time of filing the Complaint, the Respondent on its website “www.cyientax.com”, offered taxation services under the mark CYIENT TAX and claimed to be based in the US. The website also offers t-shirts for sale with stock Latin “Lorem Ipsum” text. However as on the date of this decision, the Respondent’s website “www.cyientax.com” is inactive and cannot be reached.

As disclosed by the Registrar, the Respondent is based in India. Otherwise, no information is known about the Respondent.

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 disputed domain name is confusingly similar to its trademark CYIENT. The Complainant contends its mark CYIENT is a coined mark with no dictionary meaning. The Complainant argues its trademark CYIENT is reproduced identically within the disputed domain name, in highly visible and recognizable position and hence the first element is satisfied.

The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name, since it has not been authorized by the Complainant to register the disputed domain name or to use its trademark within the disputed domain name. The Respondent is not commonly known by the disputed domain name, and it is not making either a bona fide offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name. The Complainant further argues that the Respondent’s website uses the Complainant’s mark CYIENT and has no genuine service offerings. Furthermore, the Respondent misrepresents to be based in US, but is in fact based in India. The Complainant has asserted that the Respondent’s real-world address mentioned on its website is false. The Complainant argues that the Respondent’s false claims and misrepresentations suggest potential involvement in illegal activities such as impersonation and passing off.

The Complainant argues its trademark registrations for CYIENT and goodwill and reputation notably in India and US acts as constructive notice of the Complainant's rights to the Respondent. The Complainant has been using the mark CYIENT since 2014 and the Respondent knew or should have known of its existence when they registered the disputed domain name. The Respondent registered the disputed domain name for creating confusion with the Complainant's trademark and to divert or mislead Internet users.

B. Respondent

The Respondent did not reply to the Complainant's contentions. The Respondent sent several emails to the Center including one on May 2, 2024, stating "didn't understand the issue", and on May 30, 2024, stating "What should I do? how to close this issue?".

6. Discussion and Findings

As per paragraph 5(f) of the Rules where a respondent does not submit a formal response, in the absence of exceptional circumstances, the panel may decide the dispute based upon the Complaint. The Panel does not find any exceptional circumstances in this case preventing it from determining the dispute based upon the Complaint, notwithstanding the failure of the Respondent to file a formal response. A respondent is not obliged to participate in a proceeding under the Policy, but if it fails to do so, reasonable facts asserted by a complainant may be taken as true, and appropriate inferences, in accordance with paragraph 14(b) of the Rules, may be drawn. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.3.

It remains incumbent on the Complainant to make out its case in all respects under paragraph 4(a) of the Policy. Under paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements required under by a preponderance of evidence:

- i. the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- 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 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.

Although the addition of the term "ax" 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.

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 nature of the disputed domain name effectively suggests affiliation with the Complainant. Hence, the disputed domain name may be mistaken as the Complainant’s website for tax consultancy. The Complainant’s mark CYIENT is a coined mark.

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

In absence of a formal response from the Respondent and its conduct of purportedly selling T-shirts and tax consultancy services through a competing website, the Panel cannot see how the Respondent can have rights or legitimate interests in the disputed domain name.

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 is using the disputed domain name misleadingly to divert Internet users to the Respondent’s website for commercial gain and to falsely create an association with the Complainant. The Panel is of the view that registration of the disputed domain name is an intentional attempt to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s trademark CYIENT.

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

Furthermore, the Panel also finds that false contact information has been used on the Respondent’s website which independently suggests bad faith.

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 <cyientax.com> be transferred to the Complainant.

/Shwetasree Majumder/

Shwetasree Majumder

Sole Panelist

Date: June 17, 2024