

ADMINISTRATIVE PANEL DECISION

Elsevier BV v. payment services
Case No. D2024-1972

1. The Parties

The Complainant is Elsevier BV, Netherlands (Kingdom of the), represented by Nelson Mullins Riley & Scarborough, LLP, United States of America ("US").

The Respondent is payment services, Pakistan.

2. The Domain Names and Registrar

The disputed domain names <elsevierglobal.com>, <elsevier.international>, and <sciencedirect.global> are registered with GoDaddy.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 10, 2024. On May 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On May 13, 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 (Redacted for Privacy / Registration Private, Domains by Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 20, 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 20, 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 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 17, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 18, 2024.

The Center appointed Lorenz Ehrler as the sole panelist in this matter on July 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 is a scientific publisher and data analytics company that publishes and analyses scientific, medical, and technical contents and provides its related services in over 170 countries under the “ELSEVIER” brand since 1880.

Furthermore, under the SCIENCEDIRECT trademark, the Complainant offers a database of peer-reviewed, full-text scientific, technical and health literature. This database was launched in 1997 and hosts over 18 million pieces of content from more than 4,000 academic journals and 30,000 e-books.

The Complainant owns numerous trademarks, in particular:

1. ELSEVIER trademarks

- US trademark ELSEVIER, registration No. 4,181,271, registered on July 31, 2012;
- International Registration ELSEVIER, registration No. 1348444, registered on August 24, 2016;
- European Union (“EU”) trademark ELSEVIER, registration No. 009111915, registered on November 2, 2010.

2. SCIENCEDIRECT trademarks

- US trademark SCIENCEDIRECT, registration No. 2226808, registered on February 23, 1999;
- EU trademark SCIENCEDIRECT, registration No. 000411785, registered on May 7, 1999.

The disputed domain names were registered by the Respondent at the following dates, which are all posterior to the Complainant’s trademark registrations:

- <elsevier.international>, registered on October 24, 2022;
- <elsevierglobal.com>, registered on December 8, 2022; and
- <sciencedirect.global>, registered on December 19, 2022.

The websites the disputed domain names resolve to all display the Complainant’s trademarks and logo, or a highly similar logo, and offer research-related services. The website at the disputed domain name <sciencedirect.global> mimics the Complainant’s website hosting its Science Direct database.

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.

Furthermore, the Complainant states that no license has been granted to the Respondent to use the Complainant’s trademarks. Also, the Respondent does not use the disputed domain names for any fair use.

Lastly, the Complainant contends that the Respondent registered and uses the disputed domain names in bad faith.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) the disputed domain names registered by the Respondent are 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 names; and
- (iii) the disputed domain names have been registered and are 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(s). 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 trademarks or service marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the relevant marks are reproduced within the disputed domain names. Accordingly, the disputed domain name <elsevierglobal.com> is confusingly similar to the Complainant's mark ELSEVIER, and the disputed domain names <sciencedirect.global> and <elsevier.international> are identical to the Complainant's SCIENCEDIRECT and ELSEVIER marks, respectively, for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other elements in the disputed domain name <elsevierglobal.com>, namely "global", 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 names such as those enumerated in the Policy or otherwise.

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

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that the Complainant must, in addition to the matters set out above, demonstrate that the disputed domain name has been registered and is being used in bad faith.

The Complainant's undisputed contentions claim that the Respondent is not affiliated with the Complainant and has no license or other authorisation to use the Complainants' trademarks.

The Respondent registered the disputed domain names well after the Complainant's trademarks were in use. The Panel finds that the Respondent was aware of the Complainant's trademarks and business when registering the disputed domain names. This Panel consider that the composition and use of the disputed domain names are strong indicators that the Respondent was aware of the Complainant's trademarks ELSEVIER and SCIENCEDIRECT. Also, the websites at the <elsevierglobal.com> and <elsevier.international> disputed domain names offer research-related services while displaying the Complainant's trademarks, identical (or highly similar) logos of the Complainant, and copyright notices referencing the Complainant (i.e. "Copyright © 2022 Elsevier, except certain content provided by third parties" and "Copyright © 2023 Elsevier, except certain content provided by third parties"). The website at the disputed domain name <sciencedirect.global> mimics the Complainant's website hosting its Science Direct database at "www.sciencedirect.com". These uses are clear evidence of the Respondent having actual knowledge of the Complainant's trademarks.

The Panel therefore concludes that the Respondent registered the disputed domain names in bad faith.

Panels have held that the use of a domain name for illegal activity here, clear attempts to impersonate or pass off as the Complainant, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

The circumstances of the present case are sufficient to establish bad faith use of the disputed domain names.

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 names <elsevierglobal.com>, <elsevier.international>, and <sciencedirect.global> be transferred to the Complainant.

/Lorenz Ehrler/

Lorenz Ehrler

Sole Panelist

Date: July 26, 2024