

## **ADMINISTRATIVE PANEL DECISION**

Accela, Inc. v. Domain Administrator, Fundacion Privacy Services LTD  
Case No. D2024-2119

### **1. The Parties**

The Complainant is Accela, Inc., United States of America (“United States”), represented by Hanson Bridgett LLP, United States.

The Respondent is Domain Administrator, Fundacion Privacy Services LTD, Panama.

### **2. The Domain Name and Registrar**

The disputed domain name <aca-prod-accela.com> is registered with Media Elite Holdings Limited (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 23, 2024. On May 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 24, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 18, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 25, 2024.

The Center appointed Indrek Eelmets as the sole panelist in this matter on July 8, 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 software firm based in the United States, providing services in the field of automated software, cloud-based platforms, and related technology for state and local governments. The Complainant currently works with 80% of top United States city governments, has over 1,500 active developers, and provides digital government-service delivery to more than 300 million citizens worldwide.

The Complainant has been using the ACCELA trademark since at least 2000. The Complainant owns trademark registrations for the ACCELA mark in Australia, China, the European Union, Japan, New Zealand, among others, and the following registrations in the United States:

Mark	Jurisdiction	Registration Number	Registration Date
ACCELA	United States	76014802	August 17, 2004
ACCELA	United States	85027254	November 1, 2011
 Accela	United States	85940624	February 17, 2015

The Complainant is the owner of the domain name <accela.com>, both as the location of the Complainant's main website and for certain back-end functionality that allows its services to operate. For many years, the Complainant has used this domain name as its official presence in the marketing and advertising of its goods and services under the ACCELA trademark, and has used the specific URL "aca-prod.accela.com" as part of the functionality of its Citizens' Access web application.

The disputed domain name was registered on March 8, 2021. The disputed domain name resolves to a website hosting links to third-party websites.

#### 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 Respondent registered the disputed domain name with prior actual knowledge and constructive notice of the Complainant's rights in and to its ACCELA marks. Further, the Complainant contends that the disputed domain name includes as its only distinctive word the entirety of the ACCELA trademark, appended only by non-distinctive letter strings such as "aca" and "prod." The Complainant contends that the disputed domain name is virtually identical to the URL used by the Complainant <aca-prod.accela.com> save for the swapping of a period with a hyphen, a fact that cannot be explained by coincidence and creates the inference that the Respondent deliberately sought to spoof the Complainant's URL.

The Complainant contends that the Respondent lacks rights or legitimate interests in the disputed domain name as the Respondent is not affiliated with the Complainant or any affiliate of their services, nor is the Respondent licensed to use the ACCELA marks, or any domain names incorporating them. The Complainant asserts that the Respondent has used the disputed domain name which is only one character off a URL regularly used by the Complainant (<aca-prod.accela.com>), to intentionally divert users seeking Complainant's Citizens' Access services to online listings for links to third parties, including competitors to the Complainant.

Finally, the Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith as the Respondent registered and used the disputed domain name in a deliberate attempt to deceive third parties as to the Respondent's identity or connection with the Complainant, by operating a

link-tree farm at the disputed domain name in an effort to divert legitimate user traffic seeking government services to third-party links to commercial services. The Complainant explains that it hosts its Citizens' Access services using the URL <aca-prod.accela.com>. Users access the Complainant's genuine Citizens' Access service in order to interact with local governments, including submitting repair requests and other requests for municipal services. Accordingly, the uninhibited functionality of the Complainant's Citizens' Access services via the URL <aca-prod.accela.com> is critical, and forms an essential part of the Complainant's government clients' interaction with citizens.

The Complainant contends that accessing the disputed domain name leads users to a redirect page which lists a number of sponsored links, which in turn lead to further sponsored link pages - all of which display in their header "www.aca-prod.accela.com," which is likely to lead to consumer confusion and deception to create links and websites that appear to mimic official websites from the Complainant, while using false contact information. The Complainant contends that the Respondent's conduct is a clear example of typosquatting for the purposes of promoting sponsored links.

## **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.

The entirety of the mark is reproduced 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 other terms "aca" and "prod" may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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 Panel agrees with the Complainant that a) the Respondent is not a licensee of Complainant and b) has never been commonly known by the disputed domain name, and c) the use of a nearly identical domain name for a parked page comprising sponsored links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the Complainant's mark. [WIPO Overview 3.0](#), section 2.9.

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. Paragraph 4(b)(iv) of the Policy states that bad faith can be shown where "by using the domain name [respondent has] intentionally attempted to attract, for commercial gain, Internet users to [respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [respondent's] website or location or of a product or service on [the] website or location".

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy. The Panel notes that the disputed domain name is only one character off from a URL regularly used by the Complainant (<aca-prod.accela.com>), a fact that cannot be explained by coincidence. Thus, the Panel finds that the Respondent was aware of the Complainant and its services when the Respondent registered the confusingly similar domain name.

Moreover, the Panel notes that the Complainant's trademark is widely known. Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

In view of the above, the Panel finds that the Respondent registered and used the disputed domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with Complainant and its ACCELA trademark.

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 <aca-prod-accela.com> be transferred to the Complainant.

*/Indrek Eelmets/*

**Indrek Eelmets**

Sole Panelist

Date: July 22, 2024