

## **ADMINISTRATIVE PANEL DECISION**

Serco Group Plc v. dave jas

Case No. D2024-2942

### **1. The Parties**

The Complainant is Serco Group Plc, United Kingdom, represented by SafeNames Ltd., United Kingdom (“UK”).

The Respondent is dave jas, United States of America (“US”).

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

The disputed domain name <jobs-serco.com> is registered with NameSilo, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 18, 2024. On July 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 18, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 19, 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 July 19, 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 July 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 13, 2024.

The Center appointed Rebecca Slater as the sole panelist in this matter on September 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 multinational services provision company headquartered in the UK. It predominantly operates in transport, justice and immigration, health, defence and citizen services. It was initially founded under the name RCA Services Limited, a UK division of the Radio Corporation of America and became "SERCO" in 1987. The Complainant has been listed on the London Stock Exchange since 1988. It is a Financial Times Stock Exchange ("FTSE") 350 company and manages over 500 contracts worldwide, employing over 50,000 people.

The Complainant has a portfolio of registrations for the SERCO trade mark, including US Trade mark Registration No. 2932258 for SERCO word mark (registered March 15, 2005), European Union Trade mark Registration No. 000201798 for SERCO word mark (registered August 19, 1999) and Australian Trade mark Registration No. 892338 for SERCO word mark (registered October 17, 2001) (the "Trade Mark").

The Complainant also uses several social media accounts which feature the Trade Mark.

The Respondent is an individual named dave jas apparently located in the US. The Respondent did not submit a formal response, and consequently little information is known about the Respondent.

The Respondent registered the disputed domain name on May 7, 2024.

The disputed domain name currently displays click-through links to recruitment sites.

#### **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 confusingly similar to the Trade Mark. It consists of the entirety of Trade Mark preceded by a descriptive term ("jobs") and a hyphen.
- The Respondent has no rights or legitimate interests in respect of the disputed domain name. It is not commonly known by the Trade Mark. The Respondent has not received any license from the Complainant to use the Trade Mark. The Respondent has been using the disputed domain name to carry out phishing activities by sending scam emails (impersonating an employee of the Complainant) from the email address "[...]@jobs-serco.com". This is further evidenced by the Respondent's activation of mail exchange records. The current use of the disputed domain name to display click-through links to offerings unrelated to the Complainant is also not a bona fide offering of goods or services.
- The disputed domain name was registered and is being used in bad faith by the Respondent. The registration of a domain name containing a famous trade mark can create a presumption of bad faith. The Respondent was aware of the Complainant and the Trade Mark and registered the disputed domain name to attract Internet users to the website for commercial gain, by creating a likelihood of confusion with the Trade Mark as to the source, sponsorship, affiliation or endorsement of the website. The Respondent has impersonated an employee of the Complainant in scam emails to prospective applicants. Such phishing is evidence of bad faith use. In the circumstances, the display of click-through links to recruitment sites is also evidence of bad faith use.

## **B. Respondent**

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

## **6. Discussion and Findings**

To succeed, the Complainant must demonstrate that all the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- the disputed domain name has been registered and is being used in bad faith.

The onus of providing these elements is on the Complainant.

### **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 trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Trade Mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of another term (here, "jobs" followed by a hyphen) may bear on assessment of the second and third elements, the Panel finds the addition of this term does not prevent a finding of confusing similarity between the disputed domain name and the Trade 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 Complainant has not authorized the Respondent to use the Trade Mark and there is no evidence that the Respondent has ever been known by the disputed domain name.

The evidence provided by the Complainant (i.e. scam emails and configuration of mail exchange records for the disputed domain name) indicates that the disputed domain name has been used to perpetrate a fraudulent scheme. Panels have held that the use of a domain name for illegal activity (here, claimed as impersonation/passing off and phishing) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The disputed domain name is currently being used to host a website displaying click-through links relating to recruitment offerings unrelated to the Complainant. In the circumstances, this is not a bona fide offering of goods or services. [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) 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.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy.

Under paragraph 4(b)(iv) of the Policy, there is evidence of registration and use of the disputed domain name in bad faith where a Respondent has used the disputed domain name to intentionally attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trade marks as to the source, sponsorship, affiliation or endorsement of the website.

The Panel finds it highly unlikely that the disputed domain name was registered without knowledge of the Complainant and the Trade Mark, given the significant worldwide reputation of the Complainant. The Respondent's goal in registering and using the disputed domain name appears to be to attract Internet users for potential gain. This finding is reinforced by the Respondent's use of disputed domain name for a fraudulent email scheme and the use of the website at the disputed domain names to host a website displaying click-through links which likely generate revenue for the Respondent.

Additionally, Panels have held that the use of a domain name for illegal activity (here, claimed as impersonation/passing off and phishing) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

The Complainant first tried to contact the Respondent on May 22, 2024, by emailing a cease and desist letter requesting a voluntary transfer of the disputed domain name. The Respondent failed to respond to this letter. The Panel's view of the Respondent's bad faith is only reinforced by its failure to respond to this communication.

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 <jobs-serco.com> be transferred to the Complainant.

*/Rebecca Slater/*

**Rebecca Slater**

Sole Panelist

Date: September 16, 2024