

ADMINISTRATIVE PANEL DECISION

Podium Corporation, Inc. v. Samuel Chan
Case No. D2024-3281

1. The Parties

The Complainant is Podium Corporation, Inc., United States of America (“United States”), represented by IPLA, United States.

The Respondent is Samuel Chan, China.

2. The Domain Name and Registrar

The disputed domain name <podiumvoice.com> is registered with Namecheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 10, 2024. On August 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 12, 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 (Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 13, 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 August 15, 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 August 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 10, 2024.

The Center appointed David Taylor as the sole panelist in this matter on September 19, 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

Founded in 2014, the Complainant is a private technology company headquartered in Lehi, Utah, United States. The Complainant operates a customer communication platform that helps businesses manage interactions with their clients through messaging, reviews, and payments. The Complainant provides services to consolidate communication channels, allowing businesses to engage with customers via text, online chat, and social messaging. The Complainant's platform streamlines customer service, enabling companies to send messages, request reviews, collect feedback, and manage inquiries.

The Complainant is the owner of trademark registrations for PODIUM, including:

- United States Trademark Registration No. 5196036, PODIUM, registered on May 2, 2017;
- European Union Trade Mark No. 018280296, PODIUM, registered on December 15, 2020; and
- International Trademark Registration No. 1642500, PODIUM, registered on October 22, 2021.

The Complainant is also the registrant of the domain name <podium.com>, from which it operates a client-facing website.

The disputed domain name was registered on July 9, 2024. The disputed domain name resolves to a website titled "Podium Voice" (the "Respondent's website"). The Respondent's website includes the following description:

"Podium Voice is a phone system designed to help small businesses connect with customers quickly and efficiently. With our VoIP system, you can manage calls, texts, and messages in one inbox and use AI technology to respond to missed calls instantly."

The Respondent's website features a "pricing" tab, which leads to a page displaying articles about the services offered by the Respondent.

At the time of submission of the Complaint to the Center, the Respondent's website displayed the Complainant's headquarters' physical address (Utah, United States) in its footer. At the time of this decision, that address has been updated to reflect a location in Rhode Island, United States.

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.

The Complainant asserts rights in the PODIUM trademark. The Complainant submits that the disputed domain name is confusingly similar to the Complainant's trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant asserts that the Respondent has used the disputed domain name to offer identical "AI Employee" services to those offered by the Complainant, misleading consumers, and diverting

online traffic from the Complainant's website. The Complainant notes that the Respondent has used the Complainant's business address without authorization, further implying an association with the Complainant. The Complainant states that it has not granted any rights to the Respondent to use the PODIUM mark and submits that there is no evidence the Respondent is commonly known by the disputed domain name.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. The Complainant claims to have rights in the PODIUM trademark dating back to 2015. The Respondent registered the disputed domain name in July 2024, years after the Complainant's registration of its trademark in 2017 and used it in bad faith to offer identical services to those offered by the Complainant, thereby misleading Internet users to its website. The Complainant further submits that the Respondent falsely used the Complainant's address and registered the disputed domain name making use of false contact information, further evidencing the Respondent's bad faith.

The Complainant requests transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In order to prevail, the Complainant must demonstrate on the balance of probabilities that it has satisfied the requirements of paragraph 4(a) of the Policy:

- (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 was 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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has shown rights in the PODIUM trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The entirety of the Complainant's PODIUM trademark is reproduced as the leading element of the disputed domain name, followed by the term "voice". The Panel finds the addition of the term "voice" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's PODIUM trademark, which remains clearly recognizable in the disputed domain name. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the disputed domain name to be confusingly similar to the Complainant's trademark and that 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.

As noted above, the disputed domain name resolves to a website that purports to offer identical or substantially similar services to those offered by the Complainant. Having compared the Complainant’s official website to the Respondent’s website, the Panel notes that the Respondent’s website makes use of the same grey, white, and black color scheme as used by the Complainant and resembles the look and feel of the Complainant’s official website. The Complainant has also provided screen captures showing that the Respondent’s website previously displayed the Complainant’s physical address. By using the disputed domain name in such a manner, the Respondent has effectively attempted to impersonate the Complainant. Prior UDRP panels have categorically held that the use of a domain name for activity including impersonation or passing off can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.

The Respondent has been identified as “Samuel Chan”, whose name bears no resemblance to the disputed domain name. There is no evidence to suggest that the Respondent is commonly known by the disputed domain name pursuant to paragraph 4(c)(ii) of the Policy.

Although the disputed domain name is composed of the dictionary terms “podium” and “voice”, the Respondent is not using the disputed domain name in connection with the descriptive meaning that can be directly attributed to those terms. The Panel further notes that the Complainant’s PODIUM trademark has no descriptive capacity for the goods and services for which it is registered and used. Noting the nature of the Respondent’s website, as described above, the Panel finds that the composition of the disputed domain name, comprising the Complainant’s PODIUM mark together with the term “voice”, further supports an inference that the Respondent registered the disputed domain name with knowledge of the Complainant’s PODIUM trademark, registered for, inter alia, goods and services in Class 42 including software as a service (SaaS). The Panel therefore considers that the disputed domain name carries a risk of implied affiliation with the Complainant and does not support any claim of legitimate noncommercial or fair use of the disputed domain name further to paragraph 4(c)(iii) of the Policy. See [WIPO Overview 3.0](#), section 2.5.1.

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 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.

As noted above, the Respondent has made use of the disputed domain name comprising the Complainant’s PODIUM trademark to offer services that are identical or substantially similar to those offered by the Complainant. The Respondent’s website closely mimics the Complainant’s official website and previously displayed the Complainant’s physical address. It is clear from the contents of the Respondent’s website that

the Respondent was well aware of the Complainant and its trademarks when registering the disputed domain name. The Panel finds that the Respondent's use of the disputed domain name to impersonate the Complainant evidences the Respondent's bad faith intent to target the Complainant through its registration of the disputed domain name. [WIPO Overview 3.0](#), section 3.1.4. The Panel also holds that the Respondent's registration of the disputed domain name using a proxy service, coupled with the provision of false or incomplete underlying registrant contact information, further evidences the Respondent's bad faith. [WIPO Overview 3.0](#), section 3.6.

Notwithstanding that the Respondent's website is partially incomplete, the Respondent's website is clearly intended to be commercial in nature. The Panel finds that by using the disputed domain name in the manner described above, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's PODIUM trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website, in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

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 <podiumvoice.com> be transferred to the Complainant.

/David Taylor/

David Taylor

Sole Panelist

Date: October 3, 2024