

ADMINISTRATIVE PANEL DECISION

Gibson, Dunn & Crutcher LLP v. THE INC, kbragrt ltd
Case No. D2024-3810

1. The Parties

The Complainant is Gibson, Dunn & Crutcher LLP, United States of America (“United States”), internally represented.

The Respondent is THE INC, kbragrt ltd, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <gibson-dun.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 September 19, 2024. On September 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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, Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 23, 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 September 28, 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 September 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 21, 2024.

The Center appointed Vincent Denoyelle, Phillip V. Marano, and Mireille Buydens as panelists in this matter on November 5, 2024. The Panel finds that it was properly constituted. Each member of 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 an international law firm headquartered in Los Angeles, California. The Complainant was originally founded in 1890 and it provides legal services across a network of offices in the United States, Europe, Asia, and the Middle East.

The Complainant owns various trade mark registrations for the term GIBSON DUNN, including a trade mark registration for the term GIBSON DUNN with the United States Patent and Trademark Office (“USPTO”), registration number 2,614,712, registered on September 3, 2002 in international class 45, claiming a first use date of 1911.

The Complainant has registered numerous domain names consisting of or incorporating the GIBSON DUNN trade mark, including the domain name used for the Complainant’s official website, <gibsondunn.com> which the Complainant registered on November 6, 1997.

The Respondent registered the disputed domain name on May 2, 2024.

The disputed domain name does not point to an active website. The Complainant has provided email evidence establishing that the disputed domain name was used in order to facilitate an email phishing attempt to induce fraudulent invoice payments by impersonating a formal employee of the Complainant.

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 a clear case of typosquatting where the removal of the last letter “n” in “gibson dunn” does not prevent confusing similarity between the disputed domain name and the GIBSON DUNN trade mark of the Complainant.

In addition, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant asserts that the Respondent has no affiliation with the Complainant nor any license to use the GIBSON DUNN trade mark. The Complainant points to the use of the disputed domain name to facilitate phishing attempts and the impersonation of the Complainant as a clear indication that the disputed domain name is not used in connection with a bona fide offering of goods or in a manner that could be considered as a legitimate noncommercial or fair use.

Finally, the Complainant contends that the disputed domain name was registered and is used in bad faith. The Complainant highlights the longstanding use and goodwill of the Complainant’s trade mark and its visibility on the Internet to conclude that the Respondent must have known of the Complainant’s rights when registering the disputed domain name. In support of bad faith use, the Complainant points to the Respondent’s intentional misspelling of the Complainant’s GIBSON DUNN trade mark in the disputed domain name and the use of the disputed domain name to facilitate phishing attempts and the impersonation of the Complainant to conclude that this is clear evidence of bad faith. The Complainant also points to the use of false registration data for the disputed domain name as another indication of the Respondent’s bad faith.

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 trade mark 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 Panel finds the GIBSON DUNN trade mark is recognizable within the disputed domain name. The only difference between the Complainant's trade mark and the disputed domain name at the second level is the removal of the last letter "n" in "gibson dunn". The Panel finds that this is an obvious and intentional misspelling of the Complainant's trade mark and the disputed domain name is thus confusingly similar to the trade mark GIBSON DUNN for purposes of the first element. [WIPO Overview 3.0](#), section 1.9.

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 stated that it has not licensed or otherwise authorized the Respondent to make any use of its trade mark GIBSON DUNN. There is no indication that the Respondent is commonly known by the disputed domain name.

In addition, previous panels have held that the use of a domain name for illegal activity, here, phishing and fraudulent impersonation of the Complainant, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 finds that the Respondent, at the time of registration of the disputed domain name, must have been aware of the Complainant's trade mark GIBSON DUNN given (i) the reputation and longstanding use of the GIBSON DUNN trade mark, and (ii) the fact that all first page results obtained when searching for "gibson dun" on Google refer to the Complainant.

In light of this, it seems inconceivable that the Respondent would have registered the disputed domain name for a reason other than seeking to unduly benefit from the Complainant, its trade mark and associated goodwill.

The Panel thus considers that the disputed domain name was registered in bad faith.

As for use of the disputed domain name in bad faith, given the circumstances described in the Complaint and the evidence provided by the Complainant, the Panel considers that the disputed domain name is used in bad faith. Indeed, the disputed domain name does not point to an active website. In addition, the Complainant has proffered compelling uncontroverted email evidence that the disputed domain name was used in order to facilitate a phishing attempt to induce fraudulent invoice payments through the impersonation of one of the Complainant's formal employees.

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

Finally, the fact that the Respondent did not object to the Complainant's assertions and its use of patently false registration data for the disputed domain name¹ can only reinforce the Panel's view that the disputed domain name was registered and is used in bad faith.

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

The Panel finds that the Complainant has established the third element of the Policy.

¹ It appears to the Panel that neither the Registrar or the proxy or privacy service can have performed even the most cursory review of such contact details upon its acceptance of the Respondent as its customer. Such details could not in any reasonable view be thought of as reliable contact information within the terms of the ICANN 2013 Registrar Accreditation Agreement ("RAA"), section 3.7.7.1, whereby the Registrar is required to use commercially reasonable efforts to enforce compliance (section 3.7.7, *ibid*). The submission of this contact information as the underlying registrant of the disputed domain name in the present case strongly suggests to the Panel that the Registrar's efforts to ensure compliance with the relevant section of the RAA were inadequate, whether commercially reasonable or not. The Panel suggests that the Center share this decision with ICANN so that ICANN may consider what actions it may wish to take, in the context of the Registrar's contractual compliance or otherwise.

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 <gibson-dun.com> be transferred to the Complainant.

/Vincent Denoyelle/

Vincent Denoyelle

Presiding Panelist

/Phillip V. Marano/

Phillip V. Marano

Panelist

/Mireille Buydens/

Mireille Buydens

Panelist

Date: November 18, 2024