

ADMINISTRATIVE PANEL DECISION

Office Ally, Inc. v. Host Master, Transure Enterprise Ltd
Case No. D2024-3952

1. The Parties

Complainant is Office Ally, Inc., United States of America (“United States”), represented by Nelson Mullins Riley & Scarborough, L.L.P., United States.

Respondent is Host Master, Transure Enterprise Ltd, United States.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 26, 2024. On September 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 3, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 3, 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 October 4, 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 Respondent of the Complaint, and the proceedings commenced on October 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 29, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on October 30, 2024.

The Center appointed Clark W. Lackert as the sole panelist in this matter on November 4, 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

Complainant is a healthcare technology company that offers cloud-based solutions to healthcare providers, independent physician associations (IPAs) and health plans. Complainant's platform supports both the management of care and facilitates payments between providers, health plans and patients and is paired with a clearinghouse that enables the secure exchange of healthcare information including claims, remits, and eligibility information between covered entities and across the healthcare market. Complainant has been providing its software platform to customers under the OFFICE ALLY trademark since at least as early as 2000, and PRACTICE MATE services since 2007 (the "Marks"). To fully protect the reputation, common law rights, and goodwill associated with Complainant's Marks, Complainant obtained the following registrations in the United States:

Jurisdiction	Trademark	Registration Number	Registration Date
United States	OFFICE ALLY & Design	7153725	September 5, 2023
United States	PRACTICE MATE	5664055	January 29, 2019

Respondent registered the disputed domain name on August 15, 2024, long after Complainant's claimed trademark rights.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

The Panel should transfer the disputed domain name to Complainant because (1) the disputed domain name is confusingly similar to Complainant's Marks in which Complainant has rights; (2) Respondent does not have any rights or legitimate interests in the disputed domain name; and (3) Respondent registered and is using the disputed domain name in bad faith.

The disputed domain name is confusingly similar to Complainant's Marks in which Complainant has rights.

Complainant obtained common law and registration rights in the Marks, long before the registration of the disputed domain name. Having established Complainant's prior existing and subsisting rights in Complainant's Marks, the critical inquiry under the first element of the Policy is whether the disputed domain name, when directly compared to Complainant's Marks, is identical or confusingly similar thereto. *Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*, WIPO Case No. [D2000-0662](#). While each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7. Moreover, where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. See [WIPO Overview 3.0](#), section 1.8.

Here, the disputed domain name (comprised of a combination of Complainant's trademarks OFFICE ALLY and PRACTICE MATE) is unquestionably confusingly similar to Complainant's Marks since both the OFFICE ALLY mark and the PRACTICE MATE mark are readily identifiable within the disputed domain name, coupled with the word "login". If anything, the combination of Complainant's Marks with the word "login", a

term inherently related to software, only serves to enhance the confusion created by the disputed domain name since Complainant runs a healthcare technology platform.

Respondent has no rights or legitimate interests in respect of the disputed domain name.

Complainant has not authorized Respondent to use Complainant's Marks and Respondent is not a licensee of Complainant's Marks. Complainant contends that Respondent is not commonly known by the names OFFICE ALLY, PRACTICE MATE, or any combinations or variations thereof. Accordingly, absent a showing by Respondent otherwise, it is reasonable to infer based on the publicly available information contained in the Whois record that Respondent has never been commonly known by the disputed domain name, and thus, lacks rights and legitimate interests in the disputed domain name. Moreover, Complainant has not authorized Respondent to use Complainant's Marks. Respondent is not a licensee of Complainant's Marks. Such assertions constitute a prima facie showing under Paragraph 4(a)(ii) of the Policy thereby shifting the burden of production to Respondent to show that it has rights or legitimate interests in the disputed domain name under section 4(c) of the Policy. *Spencer Douglass, MGA v. Bail Yes Bonding*, WIPO Case No. [D2004-0261](#) (absence of authorization of use of trademark constitutes prima facie showing under Paragraph 4(a)(ii) of the Policy). Accordingly, the disputed domain name effectively impersonates and suggests sponsorship or endorsement by Complainant and therefore Respondent cannot legitimately claim any rights or legitimate interest in the disputed domain name. See [WIPO Overview 3.0](#), section 2.5.1.

The disputed domain name was registered and used in bad faith.

The Panel may consider the totality of the circumstances when conducting the analysis of bad faith under Policy 4(a)(iii) and may make a finding of bad faith that is not limited to the enumerated factors in Policy 4(b). See *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#) (August 21, 2000) (“[T]he examples [of bad faith] in Paragraph 4(b) are intended to be illustrative, rather than exclusive.”). The OFFICE ALLY Mark is a highly distinctive mark that has been in use in commerce by Complainant exclusively for the past 24 years in connection with the provision of Complainant's software platform and the PRACTICE MATE Mark has been in use for the past 17 years. Such lengthy and exclusive use of Complainant's Marks by Complainant make it difficult for Respondent to offer a credible explanation for registering the disputed domain name other than for specifically targeting Complainant to trade off the goodwill associated with Complainant's Marks, which amounts to registration of the disputed domain name in bad faith. See [WIPO Overview 3.0](#), section 3.1.4 (“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.”); see also [WIPO Overview 3.0](#), section 3.1.1 (“where the domain name at issue is identical or confusingly similar to a highly distinctive or famous mark, panels have tended to view with a degree of skepticism a respondent defense that the domain name was merely registered for legitimate speculation...as opposed to targeting a specific brand owner”).

Respondent registered the confusingly similar disputed domain name solely in order to create confusion and divert Internet traffic to the website for Respondent's own financial gain via the resale of the registration. Regarding Respondent's use of the disputed domain name to resolve to the Pay-Per-Click (PPC) website with links such as “Medical Billing Software”, prior panel decisions have also consistently recognized that the registration of domain names, which are then used to operate “click-through” sites, can be considered to be evidence of bad faith use. See *CareerBuilder, LLC v. Names for Sale*, WIPO Case No. [D2005-0186](#) and *Air Austral v. WWW Enterprise, Inc.*, WIPO Case No. [D2004-0765](#). Using the website to advertise that the disputed domain name is for sale demonstrates that Respondent's sole purpose in register the disputed domain name was to tradeoff the goodwill associated with Complainant's Marks.

Moreover, Respondent began using the disputed domain name for apparently different purposes depending on the browser in which a visitor visited the website. For example, when visiting the disputed domain name in the Google Chrome browser the visitor encountered a landing page featuring PPC advertisements for ads related to “Medical Billing Software”, “Billing Software”, and “Credit Card Expense Management Software”. At the bottom of this page the visitor was presented with a “Buy this domain” link (“PPC Website”) that redirected the visitor to an <above.com> domain name marketplace page where the disputed domain name

is being offered for sale (“For Sale Website”). Whereas, if the visitor visited the disputed domain name from a Microsoft Edge browser the disputed domain name redirected the visitor to various other domains. All of these activities are for the illicit purpose of falsely diverting web traffic.

B. Respondent

Respondent is in default and 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 Complainant’s trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

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 Complainant’s Marks is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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.

In the present case, the Panel notes the registration date of the disputed domain name which was long after the use and registration of Complainant's Marks, the composition of the disputed domain name (incorporating both the OFFICE ALLY mark and PRACTICE MATE mark entirely plus an additional term "login"), and finds that Respondent had Complainant's Marks in mind while registering the disputed domain name. Further, Respondent has created a PPC website for commercial gain using Complainant's Marks together with links on the website creating the false impression that this website is in the same business as Complainant, namely, a healthcare technology platform. This use of the disputed domain name, therefore, acts as a tool to confuse the public and divert web traffic in violation of Paragraph 4(b)(iv) of the Policy. [WIPO Overview 3.0](#), section 3.2.1.

The Panel finds that 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 <officeallypracticematellogin.com> be transferred to Complainant.

/Clark W. Lackert/

Clark W. Lackert

Sole Panelist

Date: November 12, 2024