

ADMINISTRATIVE PANEL DECISION

Elsevier BV. v. GOBI EBSCO Corporate Domains, Inc.
Case No. D2024-4187

1. The Parties

The Complainant is Elsevier BV., Netherlands (Kingdom of the), represented by Nelson Mullins Riley & Scarborough, LLP, United States of America.

The Respondent is GOBI EBSCO Corporate Domains, Inc., United States of America.

2. The Domain Name and Registrar

The disputed domain name <admintool-elsevier.com> (the “Domain Name”) is registered with CV. Rumahweb Indonesia (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 10, 2024. On October 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 28, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Domain Data Guard) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 29, 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 November 4, 2024.

On October 29, 2024, the Center informed the parties in Indonesian and English, that the language of the registration agreement for the disputed domain name is Indonesian. On November 4, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment to the Complainant’s submission.

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 November 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 10, 2024.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on December 13, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a scientific publisher and data analytics company. The Complainant provides its publishing and analytics services in over 170 countries.

The Complainant has used its ELSEVIER trademark since Complainant's founding in 1880. The Complainant has trademark registrations relating to its products, such as United States trademark registration no. 4181271 (registered on July 31, 2012).

The Domain Name was registered on October 16, 2023. The Domain Name resolves to an error page. The Complainant has documented that the Respondent has used the Domain Name to set up an e-mail account used for impersonation of the Complainant/phishing.

5. Parties' Contentions

A. Complainant

The Complainant requests the language of the proceeding to be English. Despite Indonesian being the language of the Registration Agreement, the Respondent can communicate in English. The Domain Name is in Latin script. The Complainant's trademark is in English. The Respondent is located in the United States. The Respondent has used the Domain Name to set up email accounts and send phishing emails in English. The proceeding should accordingly, be conducted in English to not prejudice the Complainant as it is not able to communicate in Indonesian.

The Complainant has registered trademark rights in ELSEVIER. The Complainant submits that the Domain Name is confusingly similar to the Complainant's trademark. The Domain Name adopts the Complainant's trademark. The addition of "admintool-" is insufficient to avoid a finding of confusing similarity under the first element of the UDRP. The Domain Name is virtually identical to the Complainant's own genuine Admin Tool website.

The Complainant submits that the Respondent has no rights or legitimate interests in the Domain Name. The Respondent is not commonly known by the ELSEVIER trademark. The Respondent has not been allowed by the Complainant to make any use of its trademark. The Respondent's use of the Domain Name to send emails pretending to be the Complainant, is not "fair", but evidence of bad faith.

The Complainant argues that the Respondent's registration and use of the Domain Name for illegal phishing, and/or impersonation/passing off, is evidence of bad faith registration and use. See [WIPO Overview 3.0](#), Section 3.1.4.

B. Respondent

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

6. Discussion and Findings

6.1. Procedural matter - Language of the Proceeding

Paragraph 11(a) of the Rules provides that the language of the administrative proceeding shall be the language of the Registration Agreement, unless otherwise agreed by the parties. Importantly, paragraph 11(a) also states that the determination of the language of the proceeding is “[...] subject to the authority of the Panel [...], having regard to the circumstances of the administrative proceeding”.

The language of the Registration Agreement is Indonesian. The Complainant submitted its Complaint in English and requested English to be the language of the proceeding. The Panel notes that the Domain Name consists of the Complainant’s trademark, plus words in the English language. The Respondent appears to be located in the United States of America. Moreover, the Respondent has used the Domain Name to set up an email account and send phishing e-mails in English. Crucially, the Center has sent the communication regarding the language of the proceeding to the Respondent in both English and Indonesian, providing the Respondent a fair chance to object and yet the Respondent remained silent. The Panel determines that the language of this proceeding to be English, see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.5.

Turning to the merits of the case, in order to prevail, the Complainant must prove the three elements in paragraph 4(a) of the Policy.

6.2. Substantive Issues

A. Identical or Confusingly Similar

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 Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 1.7.

The Complainant has established that it has rights in the trademark ELSEVIER. In this case, the Domain Name incorporates the Complainant’s trademark with the addition of “admintool-”. The addition does not prevent a finding of confusing similarity between the Domain Name and the trademark. For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain; see [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which a respondent may demonstrate rights or legitimate interests in a disputed domain name.

While 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 often impossible 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. 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.

Based on the evidence, the Respondent is not affiliated with or related to the Complainant in any way. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent's use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services. The Respondent's use of the Domain Name is not bona fide, but rather evidence of bad faith, see below.

Moreover, the Panel finds that the composition of the Domain Name carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

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.

The Respondent knew of the Complainant when it registered the Domain Name. It follows from the composition and use of the Domain Name. The use of the Domain Name for phishing purposes is further evidence of bad faith, as the Respondent without authorization has impersonated the Complainant to mislead Internet users.

Based on the available record, 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 the Domain Name <admintool-elsevier.com> transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: December 19, 2024