

ADMINISTRATIVE PANEL DECISION

Google LLC v. The Lift Corporation SL

Case No. DIO2022-0009

1. The Parties

The Complainant is Google LLC, United States of America (“United States”), represented by Perkins Coie LLP, United States.

The Respondent is The Lift Corporation SL, Spain.

2. The Domain Name and Registrar

The disputed domain name <googlepartners.io> is registered with Soluciones Corporativas IP, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 7, 2022. On March 8, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 9, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details for the disputed domain name.

The Center verified that the Complaint satisfied the formal requirements of the .IO Domain Name Dispute Resolution Policy (the “Policy”), the Rules for .IO Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for .IO 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 March 16, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 5, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 6, 2022.

The Center appointed Antony Gold as the sole panelist in this matter on April 11, 2022. 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 was established in the United States in 1998 and now has offices in many countries. Since inception, it has developed and made available to the public the Internet search engine branded as GOOGLE. The Complainant owns many trade marks and domain names which comprise or incorporate its GOOGLE brand, including, by way of example only, European Union Trade Mark number 001104306 for GOOGLE, in classes 9, 35, 38, and 42, registered on October 7, 2005. In 2022, the Brand Finance Global 500 ranked GOOGLE as the third most valuable brand globally.

The Complainant offers a marketing program for advertising agencies and other entities, known as the “Google Partners Program”, which provides its members with access to special events as well as training, industry research and other benefits. Members of the program are invited to apply for “Google Partner” status, which provides them with additional benefits,

The disputed domain name was registered on November 22, 2020. As at the date of filing the Complaint¹, it resolved to a website, the home page of which was headed “Google Partners” and featured the claim “Google – We assign you the best certified specialists in your area! Apply for the grant from your annual digital marketing budget”. Other website content included; “Connect with your Google Expert – A Google Expert or Google Partner is a digital marketing agency certified by Google through its Google Partners program [...]”. The Respondent’s website also featured an online application form called the “Google grant application form”.

5. Parties’ Contentions

A. Complainant

The Complainant says that the disputed domain name is nearly identical to, and is confusingly similar to, its GOOGLE trade mark in that it fully incorporates its mark. The inclusion within the disputed domain name of the descriptive term “partner” does not diminish the confusing similarity.

The Complainant says also that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It has not authorized or licensed the Respondent to use its GOOGLE mark and this, in itself, is strong evidence that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not known as “google” or “google partners”, nor does its website comprise a *bona fide* offering of goods or services, nor is the Respondent engaged in a legitimate noncommercial or fair use of the disputed domain name. Instead, the Respondent is using the Complainant’s GOOGLE mark to deceive and mislead Internet users into applying for a fake grant. Once consumers have provided their names and contact information, the Respondent has the ability to further deceive and defraud them. Furthermore, there can be no rights or legitimate interest when the Respondent is on notice that the Complainant possesses strong trade mark rights in a mark identical or similar to the disputed domain name; see *Belo Corp. v. George Latimer*, WIPO Case No. [D2002-0329](#).

Finally, the Complainant says that the disputed domain name was registered or is being used in bad faith. The fame and distinctive qualities of the Complainant’s GOOGLE mark render it wholly implausible that the Respondent independently and coincidentally registered the disputed domain name, not least because its website expressly refers to the Complainant and its services. The Respondent therefore intentionally registered the disputed domain name in bad faith in order to improperly exploit the value of the Complainant’s mark.

¹ The Panel has been prevented from establishing the use which is presently being made of the disputed domain name because attempts to access the website produce a warning notice stating that the Respondent’s website contains malware and has been classified as phishing and fraud.

The Respondent is using the disputed domain name in order to mislead Internet users to apply for a non-existent grant and its website is likely being used for phishing. Moreover, there is evidence from a third party website that an Internet user has asked whether the Respondent is a genuine Google Partner, thereby demonstrating that the Respondent is successfully confusing and deceiving consumers. In circumstances where the disputed domain name is likely to be perceived as connected with the Complainant, its use by the Respondent suggests opportunistic bad faith.

B. Respondent

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

6. Discussion and Findings

Dealing, first, with the Respondents' failure to file a substantive response to the Complaint, paragraph 14(b) of the Rules provides that if a party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under these Rules, the Panel shall be entitled to draw such inferences from this omission as it considers appropriate.

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following three elements in order to succeed in its Complaint:

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

A. Identical or Confusingly Similar

The Complainant has provided details of its trade mark registrations for GOOGLE, an example having been provided above. It has thereby established its rights in this mark.

The Top-Level Domain, that is ".io" in the case of the disputed domain name, is typically disregarded for the purposes of the comparison made under the first element, as it is a technical requirement of registration. The disputed domain name comprises the Complainant's GOOGLE mark in full and adds the word "partners". This additional term does not prevent the disputed domain name from being found confusingly similar to the Complainant's marks. As explained at section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)")²: "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."

The Complainant's GOOGLE mark is recognizable within the disputed domain name.

The Panel therefore finds that the disputed domain name is confusingly similar to a trade mark in which the Complainant has rights.

² Given the similarities between the .IO Policy and the relevant provisions of the Uniform Dispute Resolution Policy ("UDRP"), save in respect of the third element, the Panel finds it relevant to consider the principles of [WIPO Overview 3.0](#), except to the extent that the .IO Policy diverges from the UDRP.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides, without limitation, examples of circumstances whereby a respondent might demonstrate that it has rights or legitimate interests in a domain name. In summary, these are if a respondent has used or prepared to use the domain name in connection with a *bona fide* offering of goods and services, if a respondent has been commonly known by the domain name, or if a respondent has made a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark in issue.

The Respondent's website unequivocally purports to be that of the Complainant and to invite applications by digital marketing agencies and other potentially interested parties to join the Complainant's Google Partners program. It is therefore intended to confuse Internet users into believing that it is owned and/or operated by the Complainant and, in these circumstances, it is reasonable to infer that the Respondent intends to misuse any data provided by applicants who complete the application form which has been made available on its website. Such use does not comprise a *bona fide* offering of goods and services; see *eSpeed Government Securities, Inc. and Aqua Securities, L.P. v. aqua-securities*, WIPO Case No. [D2007-1661](#). See also, section 2.13.1 of the [WIPO Overview 3.0](#) which explains that "Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent".

There is no evidence that the Respondent has been commonly known by the disputed domain name and the second circumstance under paragraph 4(c) of the Policy is therefore inapplicable. Lastly, the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name.

The Complainant has made out a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name and the burden of production shifts to the Respondent; see section 2.1 of the [WIPO Overview 3.0](#). In the absence of any response from the Respondent to the Complaint, it has failed to satisfy that burden. The Panel accordingly finds that the Respondent has no rights or legitimate interests with respect to the disputed domain name.

C. Registered or Used in Bad Faith

It is evident from the content on the Respondent's website that the Respondent registered the disputed domain name with an awareness of the Complainant's mark and with the intention of establishing a website which passed itself off as that of the Complainant. As explained at section 3.1.4 of the [WIPO Overview 3.0](#); "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 *Costco Wholesale Membership Inc. and Costco Wholesale Corporation v. Almantas Kakareka and Hostmaster Oneandone, 1&1 Internet, Inc.*, WIPO Case No. [D2007-1833](#). The Panel therefore finds the Respondent's registration of the disputed domain name to have been in bad faith.

As the Policy requires that it is necessary for a complainant to establish either bad faith registration or bad faith use, the above finding is therefore determinative of the proceedings. However, for completeness, the Panel considers the question of bad faith use.

Paragraph 4(b) of the Policy sets out, without limitation, circumstances which, if found by a panel to be present, shall be evidence of the registration and use of a domain name in bad faith. The circumstance set out in paragraph 4(b)(iv) of the Policy is if a respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website. The use to which the Respondent has put the disputed domain name falls within this circumstance in that the form and content of its website will lead Internet users to believe that it is operated by the Complainant. Such a belief will be reinforced because of the confusing similarity between the disputed domain name and the Complainant's GOOGLE trade mark.

There is no conceivable good faith use which the Respondent could make of the disputed domain name nor has the Respondent made any attempt to rebut the Complainant's assertions. See also *Google Inc. v. Google Adwords Service at HCMC, Vietnam*, WIPO Case No. [D2013-0298](#). Furthermore, the use of the disputed domain name in order to resolve to a website which solicits information from applicants for a spurious grant, most likely for the purpose of phishing, falls squarely within the circumstance of bad faith registration and use set out at paragraph 4(b)(iv) of the Policy; see *Cantor Fitzgerald Securities, Cantor Index Limited v. Cantor Index Limited*, WIPO Case No. [D2010-2204](#). The Panel accordingly finds that the disputed domain name has been used, as well as registered, in bad faith.

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 <googlepartners.io> be transferred to the Complainant.

/Antony Gold/

Antony Gold

Sole Panelist

Date: April 25, 2022