

ADMINISTRATIVE PANEL DECISION

Blackbaud, Inc. v. Domain Administrator

Case No. D2022-0477

1. The Parties

The Complainant is Blackbaud, Inc., United States of America (“United States” or “US”), represented by Soteria LLC, United States.

The Respondent is Domain Administrator, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <fsuacademicworks.com> (the “Domain Name”) is registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 10, 2022. On February 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 11, 2022, and February 15, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on February 15, 2022 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 February 17, 2022.

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 February 18, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 10, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 11, 2022.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on March 15, 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 is a cloud software company. In 2017 the Complainant acquired AcademicWorks, Inc., a company offering scholarship process and award management solutions for educational institutions across the United States under the trademark ACADEMICWORKS.

By virtue of its acquisition of AcademicWorks, the Complainant claims rights to the United States trademark ACADEMICWORKS (Reg. No. 4287823, registered on February 12, 2013).

The Domain Name was registered on January 25, 2022. At the time of the Complaint, the Domain Name resolved to a parked web page with links in the German language. At the time of drafting the decision, the Domain Name resolved to a blank web page.

5. Parties' Contentions

A. Complainant

The Complainant argues that it has trademark rights in US trademark ACADEMICWORKS registration number 428723, due to its acquisition of AcademicWorks, Inc. The Complainant argues further that the Domain Name is confusingly similar to the Complainant's ACADEMICWORKS trademark, trade name, product, and/or the Complainant's domain name <academicworks.com>.

The Complainant asserts that the Respondent is not authorized to use the Complainant's trademark, and there is no evidence indicating that the Respondent has been commonly known by the Domain Name "as the registrant is neither Blackbaud, or AcademicWorks Inc.", and, according to the Complainant, "the only arguable basis for a claim that the domain name reflects a legitimate interest would be if the domain owner can provide any prior rights to the 'AcademicWorks' trademark, which in this case does not". Moreover, the Respondent has not provided any proof of preparations for a *bona fide* offering of goods or services as the website is parked on the "Related Links" page. The Complainant points to that the Respondent seems not to have used the Domain Name beyond the parking page.

The Complainant believes the Domain Name is misleading and "provides false impressions against the Blackbaud, and AcademicWorks brand name", but also submits that "We believe that the domain owner may be attempting to domain flip, or to sell the domain name for a profit".

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant argues that it has rights in the trademark ACADEMICWORKS, and offered confirmation of the acquisition of the company that holds the trademark.

The test for confusing similarity involves the comparison between the trademark and the Domain Name. The Domain Name incorporates the trademark, with the addition “fsu”. The Panel does not believe the addition prevents a finding of confusing similarity between the Domain Name and the Complainant’s trademark.

For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain (“gTLD”); see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.11.

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

The Complainant has made unrebutted assertions that it has not granted any authorization to the Respondent to register the Domain Name containing the Complainant’s trademark or otherwise make use of the Complainant’s mark. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired unregistered trademark rights. The Respondent does not seem to have made use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering. It seems like the Respondent has not used the Domain Name beyond a parking page.

Accordingly, 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 Complainant argues that the Respondent has registered the Domain Name in order to sell the Domain Name for a profit, and that the Respondent has no rights or legitimate interests in respect of the Domain Name.

Moreover, non-use of a domain name (including a blank or “coming soon” page) may not prevent a finding of bad faith use under the doctrine of passive holding, see WIPO Overview, section 3.3.

In addition, the Panel is aware of UDRP decisions, such as *Blackbaud, Inc. v. Jenkins Alumona, Sugarcane Internet Nigeria Limited*, WIPO Case No. [D2022-0104](#), which clearly suggest that there is a pattern of bad faith by which the Complainant and its specific mark (used in connection with universities) is being targeted. The Respondent’s email address in this case indicates a connection to the respondent in the abovementioned case. The Respondent appears to be what can only be described as a cybersquatter engaged in a pattern of conduct.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) 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 Domain Name <fsuacademicworks.com> be transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: April 6, 2022