

ADMINISTRATIVE PANEL DECISION

Blackbaud, Inc. v. Gergana Raycheva, Edoms LLC

Case No. D2022-1762

1. The Parties

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

The Respondent is Gergana Raycheva, Edoms LLC, Bulgaria.

2. The Domain Name and Registrar

The disputed domain name <justgivingawards.com> is registered with DropCatch.com LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 13, 2022. On May 16, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 16, 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. On May 18, 2022, the Complainant filed an amendment to the Complaint and an amended Complaint in response to a notification from the Center regarding the clarification of the disputed domain name.

The Center verified that the Complaint together with the amendment to the Complaint and 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 May 20, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 9, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 14, 2022.

On June 8, 2022, the Complainant submitted an unsolicited supplemental filing.

The Center appointed Clive Duncan Thorne as the sole panelist in this matter on June 20, 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 sets out in the Complaint that it is a cloud-computing provider that serves social good community, non-profit foundations, corporations, education institutions, healthcare organizations, religious organizations, and individual change agents.

The Complainant has a fundraising platform known as “JustGiving” that is utilized globally to award donations to charities in over 160 countries. It owns the company, JG US, Inc. This is evidenced by Annex 5 to the Complaint which is a Declaration by Board Members of JG US, Inc. which, *inter alia*, confirms that the Complainant is the legal and beneficial owner of all of the outstanding equity in JG US, Inc.

JG US, Inc. is the registered owner of US trademark registration No. 5792260 registered on July 2, 2019, for the mark JUSTGIVING in Class 36 for ,*inter alia*, charitable fundraising services. A copy of the registration certificate is exhibited as Annex 3 to the Complaint.

The Panel notes that the disputed domain name <justgivingawards.com> was registered on March 26, 2022, which is after the date of the registration of the trade mark JUSTGIVING relied upon by the Complainant.

The Complainant points out that JUSTGIVING is a globally recognized brand and is targeted by “domain flippers”, or individuals who register domain names and sell them for a profit.

No Response has been filed by the Respondent and there is no evidence as to its activities. In the absence of a Response the Panel finds the above evidence adduced by the Complainant to be true.

5. Parties’ Contentions

A. Complainant

The Complainant submits;

- i. The disputed domain name is confusingly similar to the trade mark JUSTGIVING in which it has rights;
- ii. There is no evidence that the Respondent has any rights or legitimate interests in respect of the disputed domain name;
- iii. On the evidence the disputed domain name was registered and is being used by the Respondent in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel finds that the Complainant has rights in the JUSTGIVING trademark for purposes of the Policy.

The Complainant submits that the disputed domain name is confusingly similar to the mark JUSTGIVING. The difference between the mark and the disputed domain name is that the disputed domain name utilizes the word “awards”. This pertains to the Complainant's line of business.

The Panel finds that the disputed domain name reproduces the JUSTGIVING mark in its entirety. The addition of the term “awards” does not avoid a finding of confusing similarity under the Policy. 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 nature of such additional term(s) may however bear on assessment of the second and third elements.

The Complainant also rightly points out that the use of the Top-Level Domain “.com” should be ignored in considering a comparison between the disputed domain name and the JUSTGIVING trade mark.

Accordingly, the Panel finds that the disputed domain name <justgivingawards.com> is confusingly similar to the registered trade mark JUSTGIVING in which the Complainant has rights within paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant submits that there is no evidence that the Respondent is either affiliated or authorized by it to register or use the disputed domain name within paragraph 4(c) of the Policy.

The name of the Respondent is “Gergana Raycheva, Edoms LLC” which bears no relation to “Blackbaud” or “JustGiving”. There is also no evidence that the Respondent has been commonly known by the disputed domain name within paragraph 4(c)(ii) of the Policy.

The Panel agrees with these submissions. The Panel also takes into account that in the absence of evidence from a Respondent the Complainant has “the often impossible task of “proving a negative” requiring information that is often primarily within the knowledge or control of the Respondent” (see further section 2.1 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). It is therefore accepted that where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests within paragraph 4(a)(ii) of the Policy. If the respondent fails to do so the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

In the Panel's view that is the position here. The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name within paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Complainant submits that the registration of the disputed domain name is harmful and disrupting to its business. This is because the Complainant serves educational institutions so that the combination of the trade mark JUSTGIVING with the word “awards” means that the disputed domain name can be falsely misinterpreted into thinking that the disputed domain name belongs to the Complainant.

The Complainant also relies upon the fact that the Complainant is a globally recognized brand and is therefore targeted by “domain flippers” or individuals who register domain names and sell them for a profit.

This submission is supported by evidence contained in the Complainant's unsolicited supplemental filing of June 8, 2022. The Panel has considered the filing and has decided to admit it for two reasons. Firstly, it is relevant to the evidence and issue of bad faith. Secondly, it appears to emanate from the Respondent who must therefore be deemed to be aware of it.

The evidence contained in the filing which is now exhibited as Annex 6 is an email from [...] dated May 20, 2022, which is addressed to the Complainant's lawyers in the dispute and consists of a reminder that the disputed domain name is for sale for USD 300 which if accepted would enable the USD 1,000 fee to be refunded by the Center. This email originates from an email address which was not previously associated with the Respondent. However, in the Panel's view this email must have originated by or on behalf of the Respondent since the Respondent, at that time, would have been aware of these proceedings.

The Complainant submits that the email is evidence of the Respondent attempting to make a profit from registering the disputed domain name by offering it for sale. In the Panel's view where a respondent purports to sell the disputed domain name without evidence of independent rights or legitimate interests in it this is *prima facie* evidence of bad faith.

Based on the foregoing and in the absence of a Response and contrary evidence from the Respondent the Panel therefore finds that the disputed domain name was registered and used in bad faith within 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 disputed domain name, <justgivingawards.com> be transferred to the Complainant.

/Clive Duncan Thorne/

Clive Duncan Thorne

Sole Panelist

Date: July 4, 2022