

ADMINISTRATIVE PANEL DECISION

Deloitte Touche Tohmatsu v. Hattied Davis
Case No. D2022-1811

1. The Parties

The Complainant is Deloitte Touche Tohmatsu, Switzerland, represented by Fross Zelnick Lehrman & Zissu, PC, United States of America (“United States”).

The Respondent is Hattied Davis, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <deloitteamericas.com> is registered with 1API GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 19, 2022. On May 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 23, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on May 24, 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 May 26, 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 May 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 16, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 17, 2022.

The Center appointed Erica Aoki as the sole panelist in this matter on June 24, 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 constitutes one of the “big 4” international accountancy practices, and provides accountancy, auditing, management consultancy, tax advice and other services in numerous countries around the world under the names “Deloitte Touche Tohmatsu” and “Deloitte & Touche”. These names are frequently shortened to “Deloitte”. The Complainant is the holder of trademark registrations for DELOITTE, including for example United States trademark registration number 3,002,108 registered among others for accounting services, registered on September 27, 2005 (the “DELOITTE Marks”). The Complainant has licensed the DELOITTE Marks to its global network of independent member firms (“Deloitte Member Firms”) that provide audit, consulting, financial advisory, risk advisory, tax and related services to public and private clients around the world.

All goodwill developed from the use of the DELOITTE Marks (and domain names incorporating the DELOITTE Marks) by Deloitte Member Firms inures to the benefit of the Complainant. The Deloitte Member Firms, all of which use DELOITTE Marks under license from the Complainant, employing approximately 345,000 people in more than 150 countries and territories.

In fiscal year 2021, the Deloitte Member Firms attained aggregate global revenues of USD 50.2 billion. Together, the Deloitte Member Firms serve four out of five Fortune Global 500 companies, bringing world-class capabilities, insights, and high-quality service to address clients’ most complex business challenges. The Deloitte Member Firms receive dozens of awards and accolades each year.

The dispute domain name <deloitteamericas.com> was registered on November 29, 2021, and there is currently no active website associated with the disputed domain name. According to the evidence submitted by the Complainant, the disputed domain name was being used in connection with two email addresses for fraudulent activities.

5. Parties’ Contentions

A. Complainant

The Complainant owns the exclusive rights to the registered DELOITTE Marks, in connection with a variety of goods and services, including the core business management consultation, finance advisory and accountancy services in the United States, since at least June 19, 1990.

In addition, the Complainant has secured service mark registrations for its DELOITTE Marks in countries and jurisdictions around the world, including other countries in the Americas and including in the United Kingdom. Deloitte Member Firms maintain an Internet website at “www.deloitte.com” that provides the technology platform for their global web presence and for country-specific websites of Deloitte Member Firms around the world, including in the United Kingdom. Country-specific websites have been maintained via the <deloitte.com> domain name since 1995.

The disputed domain name differs from the Complainant’s DELOITTE Marks only by the addition of the term “americas” and is confusingly similar to the Complainant’s DELOITTE Marks.

Furthermore, the Complainant contends that the Respondent has no rights or legitimate interests in relation to the disputed domain name. The Respondent is not affiliated or related to the Complainant in any way, or licensed or otherwise authorized to use the Complainant’s mark in connection with a website or for any other purpose.

The Respondent is using the disputed domain name to perpetrate a fraud. Someone falsely claiming to be G. B., the “Gerente de Recursos Humanos, Recursos Humanos - Deloitte LLP, América” (or Human Resources Manager – Deloitte LLP, America) has used the email addresses “[...]@deloitteamericas.com” and “[...]@deloitteamericas.com” in an attempt to collect the resumes and other personally identifying information

and payments from unsuspecting job applicants hoping to secure employment at Deloitte Member Firms.

The Complainant also contends that the Respondent has registered and used the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

The Complainant is required to establish the requirements specified under paragraph 4(a) of the Policy:

(i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) that the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Based on the facts presented by the Complainant, this Panel finds that the disputed domain name is confusingly similar to a mark in which the Complainant has rights under Policy, paragraph 4(a)(i). The Complainant has established its rights in the DELOITTE Marks through registration and use. The Panel finds that there is no doubt that the disputed domain name is confusingly similar to the Complainant's registered trademark, as the disputed domain name includes the Complainant's mark in full, with only the addition of the term "americas", which does not prevent a finding of confusing similarity (see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)")).

B. Rights or Legitimate Interests

The Panel finds the following on record in this proceeding under the Policy:

The Respondent is in default and thus has made no affirmative attempt to show any rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy indicates that a registrant may have rights or legitimate interests in a domain name if it uses the domain name in connection with a *bona fide* offering of goods or services prior to notice of the dispute. In this regard, the Complainant contends that the Respondent is in no way connected with the Complainant and has no authorization to use any of the Complainant's trademarks. The disputed domain name was used to perpetrate a fraud. There is no evidence on record that the Respondent is commonly known by the disputed domain name as an individual, business, or other organization.

There is no evidence on record that the Respondent is using the disputed domain name in connection with *bona fide* offering goods or services or making a legitimate noncommercial or fair use of the disputed domain name.

Thus, the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Panel therefore finds that the Complainant has established an un rebutted *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, under the Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith.

Previous UDRP panels have found that registration of a domain name that is identical or confusingly similar (particularly domain names 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 [WIPO Overview 3.0](#), section 3.1.4). The Complainant's DELOITTE trademark was registered long before the registration of the disputed domain name. Also, considering the fame and distinctiveness of the Complainant's DELOITTE trademark and the Complainant's prior registration of its domain name, the Panel finds that it is most likely that the Respondent was aware of the Complainant's rights to DELOITTE trademark at the time the disputed domain name was registered, indicating that such registration was made in bad faith.

The disputed domain is used to perpetrate a fraud, by someone falsely claiming to be G. B., the "Gerente de Recursos Humanos, Recursos Humanos - Deloitte LLP, América" (or Human Resources Manager – Deloitte LLP, America) using the email addresses "[...]@deloitteamericas.com" and "[...]@deloitteamericas.com" in an attempt to collect the resumes and other personally identifying information and payments from unsuspecting job applicants hoping to secure employment at Deloitte Member Firms.

UDRP panels have found that given that the use of a domain name for *per se* illegitimate activity such as phishing can never confer rights or legitimate interests on a respondent, such behavior is manifestly considered evidence of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

Based on the evidence presented and in the absence of any response from the Respondent, the Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to an online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or other online location, and this constitutes evidence of bad faith under Policy, paragraph 4(b)(iv).

Accordingly, and as also supported by the Panel's findings above under the second element of the Policy, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith under Policy, paragraph 4(a)(iii).

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 <deloitteamericas.com> be transferred to the Complainant.

/Erica Aoki/

Erica Aoki

Sole Panelist

Date: July 8, 2022