

ADMINISTRATIVE PANEL DECISION

Savvas Learning Company, LLC v. Domain Administrator, Fundacion Privacy Services LTD
Case No. D2022-3608

1. The Parties

The Complainant is Savvas Learning Company, LLC, United States of America (“United States”), represented internally.

The Respondent is Domain Administrator, Fundacion Privacy Services LTD, Panama.

2. The Domain Name and Registrar

The disputed domain name <mysavvas.com> is registered with Media Elite Holdings Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 29, 2022. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 4, 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 (Mr. John Doe, United States).

The Center sent an email communication to the Complainant on October 5, 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 amendment to the Complaint also on October 5, 2022.

The Center verified that the Complaint together with the amendment to the 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 proceeding commenced on October 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 26, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 27, 2022.

The Center appointed Sebastian M.W. Hughes as the sole panelist in this matter on November 1, 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.

On November 3, 2022, the Panel issued Procedural Panel Order No. 1 (the "Order"), requesting the Complainant to provide (1) evidence of the launch and first use in commerce of the Complainant's relevant trade marks; and (2) evidence of use by the Complainant's relevant trade marks prior to December 2020, and allowing the Respondent to comment on the Complainant's submissions in response to the Order.

On November 4, 2022, the Complainant filed its response to the Order, referring to the asserted dates of first use in commerce on the registration certificates for the Complainant's relevant trade marks, already included as Annexes to the Complaint filed with the Center.

On November 4, 2022, the Center sent a further email communication to the Parties, addressed to the Complainant, requesting the Complainant to confirm whether it intended to file any further evidence in response to the Order by the stipulated deadline of November 10, 2022.

On November 8, 2022, the Complainant filed its further response to the Order, including the evidence requested in the Order.

The Respondent did not file any submissions in respect of the Order by the deadline of November 13, 2022.

4. Factual Background

A. Complainant

The Complainant is a company headquartered in the State of New Jersey in the United States and a provider of education related products and services under the trade mark SAVVAS (the "Trade Mark"), including via its website at "www.savvas.com". The Panel notes that in response to the Order the Complainant provided materials indicating the existence of trade marks for SAVVAS and SAVVAS LEARNING COMPANY.

The Complainant launched its new branding and company name under the Trade Mark in May 2020. The Complainant's first use in commerce of the Trade Mark was in its August 2020 back to school marketing campaigns, and the Complainant has continuously used the Trade Mark in respect of its education related products and services since that date.

In view of the Complainant's references to the trademark SAVVAS, the Panel has consulted public trademark databases, which show that the Complainant is the owner of registration No. 6,501,683 in the United States (related to the International Registration 1590630) for the trade mark SAVVAS, with a filing date of December 18, 2020, and a registration date of September 28, 2021, and asserted dates of first use and first use in commerce of May 2020 and August 2020, respectively.

The Complainant is also the owner of registrations in the United States for the trade mark SAVVAS LEARNING COMPANY with stylized characters, where the "SAVVAS" element of the trade mark has a dominant position, including registration No. 6,240,994, with a registration date of January 5, 2021, and asserted dates of first use and first use in commerce of May 2020 and August 2020, respectively.

B. Respondent

The identity of the Respondent is unknown, as the Respondent has registered the disputed domain name in the name of a privacy service located in Panama.

C. The Disputed Domain Name

The disputed domain name was registered on December 18, 2020 (same date as the filing date of the Complainant's trade mark registration No. 6,501,683 for SAVVAS).

D. Use of the Disputed Domain Name

The disputed domain name is resolved to an English language parking page with sponsored pay-per-click links (the "Website").

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Trade Mark; the Respondent has no rights or legitimate interests in respect of the disputed domain name; and the disputed domain name has been registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

The Complainant must prove each of the three elements in paragraph 4(a) of the Policy in order to prevail.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has rights in the Trade Mark acquired through registration and use.

The disputed domain name incorporates the entirety of the Trade Mark, prefaced by the word "my". In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7).

Where a relevant trade mark is recognisable within a disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element (see [WIPO Overview 3.0](#), section 1.8).

The Panel therefore finds that the disputed domain names are confusingly similar to the Trade Mark.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of non-exhaustive circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to the respondent of the dispute, the respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name even if the respondent has acquired no trade mark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

The Complainant has not authorized, licensed, or permitted the Respondent to register or use the disputed domain name or to use the Trade Mark. The Panel finds on the record that there is therefore a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, and the burden is thus on the Respondent to produce evidence to rebut this presumption.

The Respondent has failed to show that it has acquired any trade mark rights in respect of the disputed domain name or that the disputed domain name has been used in connection with a *bona fide* offering of goods or services. To the contrary, the disputed domain name consists of the Complainant's Trade Mark prefaced by the word "my" and is almost identical to the Complainant's domain name <savvas.com>, and has been resolved to the Website – a parking page with sponsored links.

There has been no evidence adduced to show that the Respondent has been commonly known by the disputed domain name; and there has been no evidence adduced to show that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name.

The Panel finds that the Respondent has failed to produce any evidence to rebut the Complainant's *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Panel therefore finds that the Respondent lacks rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

Given the reputation of the Complainant and its prior use (since May 2020) of the Trade Mark in the education services field; the uniqueness of the Trade Mark; the confusing similarity of the disputed domain name to the Trade Mark; the similarity between the disputed domain name and the Complainant's domain name <savvas.com>; and the manner of the Respondent's use of the disputed domain name referred to above; the Panel finds, in all the circumstances, that the requisite element of bad faith has been made out pursuant to paragraph 4(b)(iv) of the Policy.

The evidence suggests that the Respondent has targeted the Complainant in registering and using the disputed domain name; and that there cannot be in the circumstances any actual or contemplated good faith use of the disputed domain name by the Respondent.

For all the foregoing reasons, the Panel concludes that the disputed domain name has been registered and is being used 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 <mysavvas.com> be transferred to the Complainant.

/Sebastian M.W. Hughes/

Sebastian M.W. Hughes

Sole Panelist

Dated: November 17, 2022