

## ADMINISTRATIVE PANEL DECISION

### Early Warning Services, LLC v. Name Redacted Case No. D2023-2374

#### 1. The Parties

The Complainant is Early Warning Services, LLC, United States of America, represented by Bryan Cave Leighton Paisner LLP, United States of America.

The Respondent is Name Redacted.<sup>1</sup>

#### 2. The Domain Names and Registrars

The disputed domain names <zelleandcustomer.com>, <zellebankonline.com>, <zellebusinessserviceemail.com>, <zellecompany.com>, <zelleconsumerpayment.com>, <zellecreditpay.network>, <zellecustomer care.net>, <zellecustomerpayment.com>, <zellecustomerpayment.net>, <zellecustomerpaymet.net>, <zellecustomerrepayment.com>, <zelleinformationpayment.com>, <zelleinfoservicepay.com>, <zellelimitservice.com>, <zellenotice.com>, <zellenotificationservice.net>, <zelleofficialservice.com>, <zellepaycustomeragent.org>, <zellepayd.com>, <zellepayhelp.info>, <zellepayj.com>, <zellepayk.com>, <zellepaym.com>, <zellepaymentagency.net>, <zellepayment.art>, <zellepaymentconsumer.com>, <zellepaymentcustomer.com>, <zellepaymentcustomer.org>, <zellepaymenthelp.net>, <zellepaymentholdreview.com>, <zellepaymentnotification.com>, <zellepaymentverification.com>, <zellepaymobile.com>, <zellepayoffice.com>, <zellepayr.com>, <zellepayreceives.com>, <zellepayrecieves.com>, <zellepayt.net>, <zellepaytransaction.com>, <zellepayupgrade.com>, <zellepayv.com>, <zellesafe.com>, <zelleservice.network>, <zelleteammanagement.com>, <zelleuser.net>, <zelleusers.com>, <zelleusers.net>, <zelleuser.xyz>, and <zellewage.org> are registered with Google LLC (the “Registrar”).

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<sup>1</sup> The Respondent appears to have included the contact details of one or more third parties when registering the disputed domain names. In light of the potential identity theft, the Panel has redacted each of the registrant names from this decision. However, the Panel has attached as Annex 1 to this decision, an instruction to the Registrar regarding transfer of the disputed domain name, which includes the names of the various nominal Respondents. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated that Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradesco urgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 26, 2023. On June 2, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On June 6, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 7, 2023, 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 June 9, 2023.

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 Respondents of the Complaint, and the proceedings commenced on June 12, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 2, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondent’s default on July 3, 2023.

The Center appointed Adam Taylor as the sole panelist in this matter on July 6, 2023. 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 supplies payment services under the mark ZELLE.

In 2022, the Complainant processed some 2.3 billion transactions totalling USD 629 billion.

The Complainant owns many trade marks for ZELLE including United States trade mark No. 5,277,307, filed on March 9, 2016, and registered on August 29, 2017, in class 36.

The Complainant operates websites at “www.zelle.com” and “www.zellepay.com”.

The disputed domain names were registered between February and May 2023.

There is no evidence that the disputed domain names have ever resolved to active websites.

### **5. Parties’ Contentions**

#### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

#### **B. Respondent**

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

## 6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- the disputed domain names are identical or confusingly similar to a trade mark in which the Complainant has rights;
- the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- the disputed domain names have been registered and are being used in bad faith.

### A. Procedural Issue - Consolidation

The principles governing the question of whether a complaint may be brought against multiple respondents are set out in section 4.11 of [WIPO Overview 3.0](#).

The Panel notes the following:

1. The registrant names originally shown for each of the disputed domain names comprised the same privacy service customer identification number, which the provider's terms describes as "unique".
2. All of the disputed domain names were registered during the same four-month period, and with the same Registrar.
3. The disputed domain names are in a similar format in that they all consist of the term "zelle" followed by a range of descriptive terms, many of which are repeated in different domain names.
4. None of the disputed domain names resolve to active webpages.
5. None of the Respondents have come forward to object to consolidation.

In these circumstances, the Panel is satisfied that the disputed domain names are subject to common control and that, in the circumstances, consolidation is fair and equitable to all parties, and also procedurally efficient.

### B. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trade mark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1

The Panel finds the entirety of the mark is reproduced within each of the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms (such as "bank", "payment", "service", "pay", "business", "receives", "user", "service", "mail", "customer", "transaction", "online"), may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

### **C. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names.

Based on the available record, the Panel finds the second element of the Policy has been established.

### **D. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the record, the Panel finds the non-use of the disputed domain names does not prevent a finding of bad faith in the circumstances of this proceeding. While panels will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3. Having reviewed the record, the Panel notes the distinctiveness and reputation of the Complainant’s trade mark, the composition of the disputed domain names, the lack of any response, the likelihood that false contact details have been used<sup>2</sup>, and the implausibility of any good faith use, and finds that, in the circumstances of this case, the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy.

Based on the available record, the Panel finds the third element of the Policy has been established.

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<sup>2</sup> The Center received a communication dated June 15, 2023, indicating that certain of the contact information used by the Respondent relates to an individual who has been a victim of identity theft.

## 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 names <zelleandcustomer.com>, <zellebankonline.com>, <zellebusinessserviceemail.com>, <zellecompany.com>, <zelleconsumerpayment.com>, <zellecreditpay.network>, <zellecustomercare.net>, <zellecustomerpayment.com>, <zellecustomerpayment.net>, <zellecustomerpaymet.net>, <zellecustomerrepayment.com>, <zelleinformationpayment.com>, <zelleinfoservicepay.com>, <zellelimitervice.com>, <zellenotice.com>, <zellenotificationservice.net>, <zelleofficialservice.com>, <zellepaycustomeragent.org>, <zellepayd.com>, <zellepayhelp.info>, <zellepayj.com>, <zellepayk.com>, <zellepaym.com>, <zellepaymentagency.net>, <zellepayment.art>, <zellepaymentconsumer.com>, <zellepaymentcustomer.com>, <zellepaymentcustomer.org>, <zellepaymenthelp.net>, <zellepaymentholdreview.com>, <zellepaymentnotification.com>, <zellepaymentverification.com>, <zellepaymobile.com>, <zellepayoffice.com>, <zellepayr.com>, <zellepayreceives.com>, <zellepayrecieves.com>, <zellepayt.net>, <zellepaytransaction.com>, <zellepayupgrade.com>, <zellepayv.com>, <zellesafe.com>, <zelleservice.network>, <zelleteammanagement.com>, <zelleuser.net>, <zelleusers.com>, <zelleusers.net>, <zelleuser.xyz>, and <zellewage.org> be transferred to the Complainant.

*/Adam Taylor/*

**Adam Taylor**

Sole Panelist

Date: July 20, 2023