

ADMINISTRATIVE PANEL DECISION

Salesforce Inc. v. Mihail Kolesnikov

Case No. D2023-3885

1. The Parties

The Complainant is Salesforce Inc., United States of America (the “United States”), represented by DLA Piper US LLP, United States.

The Respondent is Mihail Kolesnikov, China.

2. The Domain Name and Registrar

The disputed domain name <wvslack.top> is registered with Nicenic International Group Co., Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 16, 2023. On September 18, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 27, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing his contact details.

The Center verified that 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 proceedings commenced on October 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 26, 2023.

The Center appointed Kiyoshi Tsuru as the sole panelist in this matter on November 9, 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 is the owner of the Slack software, launched in April 2013, which is a collaboration and communications platform for businesses and organizations, as well as related products and services.

The Complainant is the owner of several trademark registrations in United States, among others, the following:

Trademark	No. Registration	Jurisdiction	Date of Registration
SLACK	4610670	United States	September 23, 2014
SLACK	4877559	United States	December 29, 2015
SLACK	1257432	Australia, Bosnia and Herzegovina, India, Israel, Japan, Republic of Korea, Serbia, Türkiye, Ukraine.	May 29, 2015

The Complainant is the owner of the domain name <slack.com>.

The disputed domain name was registered on January 20, 2023, and currently resolves to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant argued the following:

I. Identical or Confusingly Similar

That the disputed domain name is confusingly similar to the Complainant's SLACK trademark.

That the disputed domain name was registered to confuse the Complainant's consumers.

II. Rights or Legitimate Interests

That the Respondent is not commonly known by the disputed domain name.

That, to the Complainant's knowledge, the Respondent has not filed any applications for the registration of SLACK in any trademark office or jurisdiction in the world.

That the Respondent has no relationship with the mark SLACK or the Complainant, and has not received any authorization from the Complainant to use the SLACK mark, nor to register the disputed domain name, or to otherwise associate himself with the SLACK mark or the Complainant.

III. Registered and Used in Bad Faith

That the Respondent has registered a domain name that is almost identical to the SLACK trademark, adding "wvv" before the mark SLACK to mimic a "www" (or "World Wide Web") Internet address.

That the disputed domain name is a clear example of typosquatting, which constitutes strong evidence of bad faith.

That, by the time when the disputed domain name was registered in January 2023, the SLACK platform had over ten million active users per day, and thus said trademark, as well as the goods and services that the Complainant provides under it, were well known to consumers.

That the Respondent is attempting to capitalize on the trust and good faith that consumers have in the Complainant's trademark and are trying to use this association to engage in phishing attempts.

That the Respondent has created, registered, and is using the disputed domain name in bad faith under the passive holding doctrine.

B. Respondent

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

6. Discussion and Findings

Given the Respondent's failure to submit a formal response, the Panel may decide this proceeding based on the Complainant's undisputed factual allegations under paragraphs 5(f), 14(a), and 15(a) of the Rules (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#), and *Encyclopaedia Britannica, Inc. v. null John Zuccarini, Country Walk*, WIPO Case No. [D2002-0487](#)).

A. 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 trademark 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 trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

It is well established in prior decisions issued under the UDRP, with which the Panel agrees, that a generic Top-Level Domain ("gTLD") may generally be disregarded when comparing a trademark with a disputed domain name. The Panel considers the ".top" gTLD to be irrelevant in the circumstances of the present case.

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

While the addition of other term such as "wvv" may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8. The Panel finds that the disputed domain name is confusingly similar to the SLACK trademark, since said disputed domain name includes it entirely.

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

B. 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 name. The Complainant has asserted that there is no evidence of the Respondent’s use of the disputed domain name in connection with a *bona fide* offering of goods or services, and that the Respondent has not been licensed or otherwise permitted by the Complainant to use the SLACK trademark, or to register the disputed domain name (see *Amdocs Development Ltd. and Amdocs Software Systems Ltd. v. cenk erdogan*, WIPO Case No. [D2023-3044](#); *Amdocs Development Ltd. and Amdocs Software Systems Ltd. v. Nick Lamba*, WIPO Case No. [D2023-2573](#) and *Autodesk, Inc. v. Brian Byrne, meshIP, LLC*, WIPO Case No. [D2017-0191](#)). The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights to or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

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

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Complainant has ascertained its rights over the SLACK trademark. The dates of registration of the Complainant’s trademarks significantly precede the date of registration of the disputed domain name.

In the present case, the Panel notes that the Respondent registered the disputed domain name on January 20, 2023, long after the Complainant registered and began using the SLACK trademarks. Respondent’s bad faith registration is evidenced by the fact that (1) the SLACK trademark is known worldwide; (2) the disputed domain name is confusingly similar to the SLACK trademark, as it incorporates the entirety of said mark, and is also similar to the Complainant’s own domain name <slack.com>; (3) the Complainant has submitted evidence of extensive use and registration of the SLACK trademark many years prior to the registration of the disputed domain name; (4) the Respondent has engaged in a typosquatting conduct (by using “wvv” to try to mimic a WWW web address; and (5) the Respondent is in default and has not shown any rights to or legitimate interests in the disputed domain name. On the uncontroverted evidence, the Panel finds that the Respondent registered the disputed domain name in bad faith.

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 name does not prevent a finding of bad faith in the circumstances of this proceeding. While UDRP 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 his

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 goodwill of the Complainant's trademark, and the confusingly similar composition of the disputed domain name, and thus finds that under the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel finds that the fact that the Respondent registered the disputed domain name which entirely reproduces the Complainant's trademark SLACK shows that the Respondent has targeted the Complainant, which constitutes opportunistic bad faith (see section 3.2.1 of the [WIPO Overview 3.0](#); see also *L'Oréal v. Contact Privacy Inc. Customer 0149511181 / Jerry Peter*, WIPO Case No. [D2018-1937](#); and *Gilead Sciences Ireland UC / Gilead Sciences, Inc. v. Domain Maybe For Sale c/o Dynadot*, WIPO Case No. [D2019-0980](#)).

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

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, <wvslack.top>, be transferred to the Complainant.

/Kiyoshi Tsuru/

Kiyoshi Tsuru

Sole Panelist

Date: November 23, 2023