

ADMINISTRATIVE PANEL DECISION

Hostinger, UAB v. Hassam Zafar

Case No. D2023-4235

1. The Parties

Complainant is Hostinger, UAB, Lithuania, represented by Andrea López, Spain.

Respondent is Hassam Zafar, Pakistan.

2. The Domain Name and Registrar

The disputed domain name is <hostingerblue.com> which is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 11, 2023. On October 11, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 11, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from those in the Complaint (Redacted for privacy, Privacy Service Provided by Withheld for Privacy ehf). The Center sent an email communication to Complainant on October 16, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on October 19, 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 Respondent of the Complaint, and the proceedings commenced on October 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 12, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on November 14, 2023.

The Center appointed Gerardo Saavedra as the sole panelist in this matter on November 20, 2023. This Panel finds that it was properly constituted. This 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

Complainant operates a web hosting services platform.

Complainant has rights over the HOSTINGER mark for which it holds several mark registrations in a number of jurisdictions, such as International registration No. 1079958 in class 42, registered on April 5, 2011, and Australian registration No. 1433889 in class 42, registered on April 5, 2011.

Complainant also has rights over the HOSTINGER and design mark for which it holds several mark registrations in several jurisdictions, such as International registration No. 1543196 in classes 9 and 42, registered on March 25, 2020, and European Union registration No. 018198410 in classes 9 and 42, registered on June 11, 2020.

The disputed domain name was registered on April 15, 2023. By the time the Complaint was filed the website linked to the disputed domain name showed, among others, a logo followed by “Hostinger Blue”, “Everything You Need to Create a Website”, “Hostinger Blue has made it a goal from its inception in 2022 to provide hosting services”, “Choose Your Web Hosting Plan”, “Single Web Hosting Ideal solution for beginners \$39.99 / yr Add to cart”, “Professional Web Hosting Optimized for Professional business \$220.99 / yr Add to cart”, “Hostinger Blue is a Web hosting company offering Domain, name registration, Cpanel, Shared & Reseller Hosting”, “© 2023 Copyrights – All Rights Reserved By Hostinger Blue”.

5. Parties’ Contentions

A. Complainant

Complainant’s assertions may be summarized as follows.

Complainant was founded in Lithuania in 2004 under the name Hosting Media and rebranded to its current name in 2011. Complainant’s web hosting platform provides users simple ways to create and run their websites; with an average of 15,000 new subscribers a day, it has achieved 29 million users in 178 different countries. Complainant currently has offices in Lithuania, Cyprus, Brazil and Indonesia, and has seven data centers around the world, mainly in Brazil, Indonesia, Lithuania, The Netherlands, Singapore, United Kingdom and the United States of America. Complainant’s success has been recognized by the Financial Times in the annual ranking of the 1000 fastest growing companies in Europe since 2020.

Complainant has been using the HOSTINGER brands in connection with its web hosting services. The brand was first registered in Lithuania in 2011, and later in several countries at a global level. HOSTINGER in itself has no particular meaning, it is essentially a wordplay on the word “hosting”, and it is uniquely identified with Complainant. Complainant’s marks are recognized globally in the web hosting and domain name registration industries, and HOSTINGER has acquired a great international business reputation.

Complainant is the owner of the domain name <hostinger.com> which hosts its official website,¹ as well as of more than 40 domain names that include the HOSTINGER mark, such as <hostinger.cn>, <hostinger.co.nz>, <hostinger.com.hk>, <hostinger.jp>, <hostinger.ph> and <hostinger.com.pe>.

A comparison between the disputed domain name and the HOSTINGER mark shows a clear similarity between them. The disputed domain name reflects the entirety of Complainant’s mark. The addition of the

¹ Complainant did not provide screenshots or other evidence of the content of its official website.

term “blue” cannot be considered sufficient differentiation as the term in itself does not add any extra information.

Respondent has no rights or legitimate interests in respect of the disputed domain name. Complainant has no prior relationship with Respondent and has never authorized Respondent to use its HOSTINGER mark or register any domain name with the HOSTINGER mark. Respondent’s name has no relation to the HOSTINGER mark, Respondent is not commonly known by the disputed domain name and does not own any rights over the HOSTINGER mark.

Respondent has been using the disputed domain name to provide services similar to those of Complainant: web hosting and domain name registration services. Respondent’s intention is to mislead and divert customers to its website, making them believe there is some type of relation or affiliation between Respondent and Complainant. The colors used at the website linked to the disputed domain name are similar to those of Complainant (purple, black and grey tones in the fonts and infographics), and thus it is evident Respondent is attempting to create a resemblance to Complainant’s overall branding to mislead customers, which indicates that Respondent was aware of the existence of Complainant’s marks. Any good faith considerations cannot be applied in this case since Respondent attempted to obtain commercial gains from using Complainant’s mark without having permission to do so. Respondent knew or should have known that its use of the HOSTINGER mark could not be considered a legitimate or fair use.

The disputed domain name was registered and is being used in bad faith. The use of Complainant’s mark in its entirety in the disputed domain name is, in itself, clear evidence of bad faith.

Respondent knew or should have known about Complainant’s mark. Given that Complainant’s mark is known globally and is also registered in multiple jurisdictions, the willful ignorance exercised by Respondent at the time of registering the disputed domain name is in this case obvious.

Respondent’s intention was to mislead users to its website by taking advantage of Complainant’s mark reputation. The content of the website linked to the disputed domain name, showing a similar look and feel, and services offered therein, reveal Respondent’s knowledge of Complainant’s mark and branding prior to registering the disputed domain name. The fact that the services offered through the disputed domain name directly compete with those of Complainant is further evidence of Respondent’s bad faith, as Respondent is using the HOSTINGER mark for commercial gain.

Complainant sent by email a cease-and-desist letter to Respondent on May 12, 2023, and a follow-up reminder on May 22, 2023, having received no response from Respondent. That is evidence of Respondent’s knowledge of the HOSTINGER mark and willingness to use it for its own profit. Respondent’s use of a privacy shield to hide its identity, together with its failure to respond to Complainant’s cease-and-desist communications, can only be deemed as extra proof of Respondent’s bad faith.

Further, it seems that Respondent chose the disputed domain name specifically because it results of the mix of two popular hosting companies, Complainant and Bluehost (a company also dedicated to web hosting and domain name registration services). Thus, Respondent was attempting to gain more Internet traffic with the combination of those terms that are linked to two of the most popular competing companies in the web hosting industry.

Complainant requests that the disputed domain name be transferred to Complainant.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel to “decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

The lack of Response from Respondent does not automatically result in a favorable decision for Complainant (see *Berlitz Investment Corp. v. Stefan Tinculescu*, WIPO Case No. [D2003-0465](#), and section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). The burden for Complainant, under paragraph 4(a) of the Policy, is to show: (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; (ii) that Respondent has no rights or legitimate interests in respect of the disputed domain name; and (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

It is undisputed that Complainant has rights over the HOSTINGER mark.

Since the addition of the generic Top-Level Domain (“gTLD”) “.com” in a domain name is technically required, it is well established that such element may be disregarded when assessing whether a domain name is identical or confusingly similar to a mark. The disputed domain name reflects the HOSTINGER mark in its entirety, albeit followed by “blue”. It is clear to this Panel that the HOSTINGER mark is recognizable in the disputed domain name and that the addition of such term in the disputed domain name does not avoid a finding of confusing similarity with said mark (see sections 1.7 and 1.8 of the [WIPO Overview 3.0](#)).

Thus, this Panel finds that Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Complainant has alleged and Respondent has failed to deny that Respondent has no rights or legitimate interests in respect of the disputed domain name.

Complainant contends that Respondent is not commonly known by the disputed domain name, that it has no relationship with Respondent, that it has not authorized Respondent to use its marks and that Respondent does not own any rights over HOSTINGER.

The evidence in the file shows that Respondent commercially operated the website linked to the disputed domain name to offer web hosting and domain name registration services in direct competition with Complainant, featuring Complainant’s HOSTINGER mark and without showing any prominent and clear disclaimer as regards Complainant and its mark, thus leading Internet users to believe that such website may be somehow associated with Complainant. All that demonstrates neither a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use of the disputed domain name.

This Panel considers that Complainant has established a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain name (see section 2.1 of the [WIPO Overview 3.0](#)). In the case file, there is no evidence of circumstances of the type specified in paragraph 4(c) of the Policy or of any other circumstances giving rise to a possible right to or legitimate interest in the disputed domain name by Respondent.

Based on the aforesaid, this Panel concludes that paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

Complainant contends that Respondent's registration and use of the disputed domain name is in bad faith, which Respondent chose not to rebut.

Taking into consideration that the registration and use of Complainant's marks preceded the registration of the disputed domain name, that Complainant's HOSTINGER mark appears to be a coined term that confers to it certain distinctiveness, and the content of the website linked to the disputed domain name, this Panel is of the view that Respondent should have been aware of Complainant and its HOSTINGER mark at the time it obtained the registration of the disputed domain name, which is indicative of bad faith.²

Complainant provided screenshots of the website associated with the disputed domain name, from which it is clear that Respondent used the disputed domain name for commercial purposes, featuring services competing with those offered by Complainant and showing Complainant's mark, thus diverting Internet traffic looking for Complainant in order to commercially benefit therefrom.³ By using in such way the disputed domain name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website and the services offered therein, which is also a showing of bad faith.

Further, Respondent's failure to reply to Complainant's cease and desist communication may also be indicative of bad faith (see *Fenix International Limited v. Oleg Zabugrovskiy*, WIPO Case No. [D2021-3386](#)). In this Panel's view, the lack of response is also indicative that Respondent lacks arguments and evidence to support its holding of the disputed domain name.

In light of the above, this Panel finds that Complainant has satisfied 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, this Panel orders that the disputed domain name <hostingerblue.com> be transferred to Complainant.

/Gerardo Saavedra/

Gerardo Saavedra

Sole Panelist

Date: December 4, 2023

² See *Bartercard Ltd & Bartercard International Pty Ltd . v Ashton-Hall Computer Services*, WIPO Case No. [D2000-0177](#): "the Domain Name has been used to host a website offering competing products to those offered by the Complainant [...] this suggests that the Respondent registered the Domain Name with the primary intention of disrupting the business of a competitor [...] It also indicates that the Respondent has used the Domain Name to attract Internet users to its website for commercial gain by virtue of confusion with the Complainant's mark [...] Under the Policy, both of these are sufficient to show registration and use of the Domain Name in bad faith".

³ See *Lilly ICOS LLC v. East Coast Webs, Sean Lowery*, WIPO Case No. [D2004-1101](#): "registration of a domain name in order to utilize another's well-known trademark by attracting Internet users to a website for commercial gain constitutes a form of bad faith".