

ADMINISTRATIVE PANEL DECISION

Info Edge (India) Limited v. Crescendo Global Services
Case No. DAI2023-0044

1. The Parties

The Complainant is Info Edge (India) Limited, India, represented by Rahul Chaudhry & Partners, India.

The Respondent is Crescendo Global Services Raghav Choudhary India.

2. The Domain Name and Registrar

The disputed domain name <naukri.ai> is registered with Marcaria International LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 8, 2023. On November 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 23, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the 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”).

The disputed domain name expired on October 27, 2023. The Registrar sent a communication on November 24, 2023 to the Center stating that the disputed domain name would need to be restored and renewed to continue with the current proceeding. On November 27, 2023, the Center sent a communication to the Parties regarding the Registrar’s email and enquiring if any of the Parties would restore and renew the disputed domain name. The Complainant replied to the Center’s communication by an email dated December 15, 2023, and subsequently the disputed domain name was restored and renewed by the Complainant, which was confirmed by the Registrar’s email of December 18, 2023. On December 19, 2023, upon confirmation of the Complainant having restored and renewed the disputed domain name.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on December 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 9, 2024. The Respondent did not submit any formal

Response. However, the Respondent sent two informal emails to Center on December 20 and 26, 2023. Accordingly, the Center notified the Respondent with Commencement of Panel Appointment on January 10, 2024.

The Center appointed Harini Narayanswamy as the sole panelist in this matter on January 23, 2024. 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 an Indian public limited company in the business of running online portals. Its shares are listed and traded on the stock exchanges of India. The Complainant owns the trademarks NAUKRI and NAUKRI.COM and owns trademark registrations for the marks in India and other jurisdictions.

The Complainant has Indian trademark registrations for NAUKRI mark bearing No. 888954, registered on November 26, 1999 under class 9 in respect of computer software and trademark registration No. 888595, registered on November 26, 1999 under class 16 in respect of books and booklets relating to computer software. The Complainant also owns Indian trademark registration for the NAUKRI.COM mark with trademark registration No. 1262309, registered on January 21, 2004, under class 42 in respect of computer services and online computer services.

The Respondent, Crescendo Global Services, registered the disputed domain name on December 15, 2017. Prior to the proceeding, the disputed domain name resolved to a static page that was parked. Presently, the disputed domain name resolves to a Registrar's page indicating that "This domain has been registered through Marcaria.com".

5. Parties' Contentions

A. Complainant

The Complainant states that it is a leading Internet company of India that runs several portals including the jobsite portal "www.naukri.com", "www.jeevansathi.com" - a matrimonial portal, "www.99acres.com" - a real estate portal, and "www.shiksha.com", which is an education portal. The Complainant states that its offline executive search business "Quadrangle" is only for the Indian market. The Complainant states that it has expanded its business to the Gulf region with website "www.naukrigulf.com" which has offices in Dubai, Abu Dhabi, Qatar, Bahrain and Riyadh.

The Complainant states that its headquarters is located in Noida and that it has 75 offices across 55 cities in India. As of August 2023, the Complainant states it has 5,568 employees. The Complainant adds that it has invested in Internet startups and many institutional shareholders have invested in its business. The Complainant states that the domain name <naukri.com> was first created on March 27, 1997, for purposes of providing online recruitment classified advertisements. Notably, the Complainant contends that its website is popularly known as "www.naukri.com", and its shares are traded as "Naukri". The Complainant asserts that due to the substantial use of its NAUKRI mark, the word "Naukri" has acquired secondary meaning.

The Complainant contends that it has spent extensively for acquiring and developing technical expertise for making and promoting services under its mark. The Complainant has provided figures of its revenue and advertisement expenses for the period 2008 to 2023. It has also filed as evidence invoices and its annual reports from the year 2006. The Complainant alleges that due to extensive promotions of the NAUKRI mark and its quality of services, the mark has acquired goodwill and is well-known internationally as its portal is used in other countries to source Indian talent. The Complainant has also listed out various awards that it has received.

The Complainant has provided evidence of its trademark registrations for marks in India and other jurisdictions. The Complainant states that its platform has over 91 million resumes and 79,315 unique clients. The Complainant alleges that it owns over 100 domain names in different jurisdictions and its mobile applications have over 10 million downloads. The Complainant contends that it has been vigilant in protecting its mark and has taken action against infringers and has provided a list of these cases.

The Complainant contends that it has satisfied each of the elements required under the Policy, that the Respondent has registered the disputed domain name which is akin to its mark. The Complainant alleges that the Respondent lacks rights or legitimate interests in the disputed domain name and has not used or developed a website and does not appear to have any intention to do so and has registered and is using the disputed domain name in bad faith. The Complainant requests transfer of the disputed domain name.

B. Respondent

The Respondent did not file a formal Response but the Center received two emails from Raghav Choudhary who seems to be related to the Respondent on December 20, and 26. In the first email, it stated that the disputed domain name was acquired by him and has been owned by him for the past six years and he added “I would appreciate if the same is not stolen from me or hijacked from my account without keeping me in the loop. Please provide me with more information so I can address the same”.

In the second email, it stated “I have reverted back to the previous email. Please explain me what action are you expecting from my end on this?” The Center replied to the Respondent’s email on December 28, 2023 and informed the Respondent that the Response was due on January 9, 2024. There was no reply or response from the Respondent.

6. Discussion and Findings

Three elements need to be established by the Complainant under paragraph 4 (a) of the Policy to obtain transfer of the disputed domain name, these are:

- (i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) The Respondent lacks rights or legitimate interests in the disputed domain name; and
- (iii) The disputed domain name was registered and is being used in bad faith by the Respondent.

A. Identical or Confusingly Similar

The first element under paragraph 4(a) of the Policy requires the Complainant to establish the disputed domain name is confusingly similar to a trademark or a service mark in which it has rights.

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. The Complainant has provided evidence of its trademark rights in NAUKRI mark and is therefore found to have established its rights in respect of the trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The second level domain name consists of the NAUKRI mark which is fully incorporated in the disputed domain name and this is sufficient to find confusing similarity with the mark. The ccTLD, “.ai”, (the ccTLD for Anguilla), can be disregarded under the first element of the confusing similarity test. See [WIPO Overview 3.0](#), section 1.11.1. The top-level domain name suffix is generally disregarded under the

first element similarity test unless the suffix itself is part of the trademark. Accordingly, the disputed domain name here is found to be identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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.

The Complainant has argued that the Respondent lacks rights or legitimate interests in the disputed domain name as the Respondent has not used the disputed domain name but is merely squatting on it to derive benefit from the reputation and goodwill associated with the Complainant's mark. The Complainant also alleges that no authorization or license has been given to the Respondent to use its mark.

Paragraph 4(c) of the Policy provides a non-exhaustive list of illustrative circumstances that a respondent may rely on to demonstrate rights or legitimate interests in a disputed domain name. The Respondent in the present proceeding has sent two email communications but has not mentioned why he has registered the disputed domain name or explained his bona fide intention in doing so. The Respondent has not provided any relevant evidence demonstrating any rights or legitimate interests in the disputed domain name, such as those enumerated in the Policy or otherwise.

The Panel notes the Respondent had allowed the registration of the disputed domain name to lapse. The disputed domain name had expired on October 27, 2023 and the Registrar was set to release the disputed domain name to the public. If the Complainant had not filed the current Complaint, the Respondent would have lost the disputed domain name due to his neglect in the renewing the disputed domain name. The Panel furthermore notes that the Respondent did not even respond to the Center's email which was sent to both parties regarding the restoring and renewal of the disputed domain name but waited for the Complainant to restore and renew the disputed domain name. The Respondent's allegations of the disputed domain name being “stolen” or “hijacked”, under these circumstances seems to unfounded.

If the Respondent had genuine and legitimate use of the disputed domain name, the Respondent would have displayed such ownership and legitimate rights by being vigilant. Even if by oversight a lapse had occurred in the renewal of the disputed domain name, a party that has genuine rights or legitimate interests would come forward to renew the disputed domain name when informed by the registrar and the Center. It is significant that the Respondent did not come forward, but it was the Complainant that restored and renewed the disputed domain name. However, the Respondent sent an email communication to the Center only after the disputed domain name had been restored and renewed by the Complainant, in which he makes unfounded allegations. These circumstances are not indicative of the Respondent having any rights or legitimate interests in the disputed domain name.

Having reviewed the available record, the Panel finds the Respondent is not known by the disputed domain name or demonstrated that there is any legitimate reason for registration and use of the disputed domain name. The Panel notes that the Respondent does not have any authorization or license to use the NAUKRI mark or any variants of the mark and this is uncontested by the Respondent, which leads to the inference that the Respondent has made unauthorized use of the Complainant's registered trademark in the disputed domain name.

In addition, the composition of the disputed domain name (here being identical to the Complainant's trademark) carries a high risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds, on the basis of the material on record, that the Complainant has made a prima facie case that supports a showing that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie by showing or demonstrating any rights or legitimate interests in the disputed domain name.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The third element under paragraph 4(a)(iii) of the Policy requires the Complainant to establish the disputed domain name has been registered and used in bad faith by the Respondent. The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy specifies circumstances, in particular, but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name 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 also 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.

- (i) Circumstances indicate that the Respondent has registered or acquired the domain name primarily for purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) The Respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or
- (iii) The Respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) By using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website or other 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 location or of a product or service on the Respondent's website or location.

The Complainant has argued that the Respondent's registration and use of the disputed domain name shows intent to free-ride and benefit from the Complainant's mark. In the present proceeding, the Panel notes that the Respondent has not used the disputed domain name. 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. This is particularly the case where the trademark in question is well known and the facts and circumstances show that the respondent has shown no legitimate use for the disputed domain name, and inference of respondent's registration and use of the disputed domain name with bad faith purposes is high.

Having reviewed the available 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. Although panelists 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, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

The Panel finds the Complainant has submitted sufficient evidence demonstrating the distinctiveness and reputation associated with its trademark. Given the lack of use of the disputed domain name that incorporates mark and the reputation associated with the Complainant's mark, it is a typical combination that squarely comes under the passive holding doctrine showing bad faith registration and use as envisaged under paragraph 4(iii) of the Policy.

The composition of the disputed domain name (here being identical to the Complainant's distinctive trademark) together with the non-use of the disputed domain name by the Respondent, all cumulatively do not prevent a finding of bad faith under the Policy. There is no evidence in the proceeding that refutes the Complainant's submissions.

The Panel finds that the Complainant has established the third element of the Policy.

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 <naukri.ai> be transferred to the Complainant.

/Harini Narayanswamy/

Harini Narayanswamy

Sole Panelist

Date: February 6, 2023