

Nominet UK Dispute Resolution Service

DRS 05322

CAREERBUILDER LLP v VPDD UBGM Limited

Decision of Independent Expert

1. *Parties:*

Complainant: *CareerBuilder, LLP*
Address: *200 North LaSalle Street*
Suite 1100
Chicago
Illinois
Postcode: *60601*
Country: *US*

Respondent: *VPDD UBGM Limited*
Address: *No. 20 A Lane*
1/54 Av Co Street
Hanoi
Postcode: *00000*
Country: *VN*

2. *Domain Name:*

carerbuilder.co.uk ("the Domain Name")

3. *Procedural Background:*

The Complaint was lodged with Nominet on December 14, 2007. Nominet validated the Complaint and notified the Respondent of the Complaint on December 19, 2007 and informed the Respondent that he had 15 days within which to lodge a Response. The Respondent did not submit a Response. On February 5, 2008 the Complainant paid Nominet the appropriate fee for a decision of an Expert pursuant to paragraph 7 of the Nominet UK Dispute Resolution Service Policy ("the Policy").

Dawn Osborne, the undersigned, ("the Expert") confirmed to Nominet that she knew of no reason why she could not properly accept the invitation to act as expert in this case and further confirmed that she knew of no matters which ought to be drawn to

the attention of the parties, which might appear to call into question her independence and/or impartiality.

4. The Facts:

The Complainant is the owner of registered trade marks for CAREERBUILDER across the world, including the United States, Mexico, Canada and the European Community and has used the mark since 1996. The Complainant transacts its business on the Internet through various websites, including careerbuilder.com and careerbuilder.co.uk.

On January 16, 2007 the Respondent registered the Domain Name and has pointed the Domain Name to a links page featuring links to websites offering recruitment services not provided by the Complainant.

5. The Parties' Contentions:

Complainant:

The substance of the Complaint is as follows:

1. The Complainant provides online recruitment services.
2. The Complainant has trade mark rights which pre-date the registration of the Domain Name. The CAREERBUILDER mark ("the Mark") has been used since 1996 and is registered across the world in jurisdictions including the United States, Canada, Mexico and the European Community. The Complainant has expended a significant amount of time, money and effort to establish public recognition of the Mark. As a result of these efforts, the Mark has become one of the Complainant's most valuable assets. Further, the Complainant has established substantial goodwill in the Mark through extensive promotion, advertising and use of the Mark and, as a result, it has become distinctive and well recognised for employment recruiting and related services throughout much of the world.
3. The Domain Name must be considered to be confusingly similar to the Complainant's CAREERBUILDER trade mark. The omission of the letter "e" in the Domain Name is insufficient to avoid any such confusion on the part of the public and businesses alike. Any such confusion will make them believe that the Domain Name is registered to, operated or authorised by, or otherwise connected to the Complainant.
4. The Respondent does not have any rights or legitimate interests in the Domain Name and has not received any licence or consent from the Complainant.

5. *The Respondent registered the Domain Name on January 16, 2007. The Domain Name is being used to provide links to web sites distributing competing recruitment services not connected with the Complainant. Diverting Internet users to such third party sites for commercial gain is abusive and trades off the Complainant's reputation and goodwill. The Respondent is using the Domain Name to confuse consumers into thinking that the Domain Name is registered by or connected to the Complainant. The registration and use of the Domain Name is typosquatting a well recognised species of abusive registration. The Respondent is aware of the Complainant and has made reference to it on its site.*

6. *The Respondent has not answered the Respondent's correspondence or this Complaint.*

Respondent:

No response was received.

6. *Discussion and Findings:*

General

To succeed in this Complaint the Complainant has to prove to the Expert pursuant to paragraph 2 of the Policy on the balance of probabilities, first, that it has Rights (as defined in paragraph 1 of the Policy) in respect of a name or mark identical or similar to the Domain Name and, secondly, that the Domain Name, in the hands of the Respondent, is an Abusive Registration (as defined in paragraph 1 of the Policy).

Complainant's Rights

The Complainant is the proprietor of registered trade marks for CAREERBUILDER. The Domain Name is a misspelling of the Complainant's trade mark, omitting only one letter from the Complainant's name and trade mark. As such the Expert finds that the Complainant has rights in respect of a name or mark, which is similar to the Domain Name.

Abusive Registration

This leaves the second limb. Is the Domain Name, in the hands of the Respondent, an Abusive Registration? Paragraph 1 of the Policy defines "Abusive Registration" as:-

"a Domain Name which either:

- i. was registered or otherwise acquired in a manner which, at the time when the registration or acquisition took place, took unfair advantage of or was unfairly detrimental to the Complainant's Rights; OR
- ii. has been used in a manner which took unfair advantage of or was unfairly detrimental to the Complainant's Rights."

A non-exhaustive list of factors, which may be evidence that the Domain Name is an Abusive Registration is set out in paragraph 3a of the Policy including

"Circumstances indicating that the Respondent is using the Domain Name in a way which has confused people or businesses into believing that the Domain Name is registered to, operated or authorised by, or otherwise connected with the Complainant."

Whilst there is no evidence of actual confusion, the factors listed at Paragraph 3A are not exhaustive. Typosquatting or registering domain names containing misspellings of third party trade marks is, as the Complainant contends, a recognised form of abusive registration for the purpose of domain name dispute resolution proceedings. There is also evidence that the Respondent knew of the existence of the Complainant in the recruitment services field. Whilst it is not a specific ground of abuse listed in the non exclusive grounds in the Policy, "typosquatting" is conduct which is, in the opinion of the panellist, abusive in itself. The Expert is of the opinion that the Respondent's registration and use of the Domain Name is indicative of relevant abusive conduct.

There is no obvious reason why the Respondent might be said to have been justified in registering the Domain Name and it has not responded to the Complaint.

Accordingly, the Expert finds that the Domain Name is an Abusive Registration within the definition of that term in paragraph 1 of the Policy.

7. *Decision:*

In light of the foregoing findings, namely that the Complainant has Rights in respect of a name or mark which is similar to the Domain Name and that the Domain Name, in the hands of the Respondent, is an Abusive Registration, the Expert directs that the Domain Name, carerbuilder.co.uk be transferred to the Complainant.

Dawn Osborne

Date