



**CANADIAN INTERNATIONAL INTERNET DISPUTE RESOLUTION CENTRE**  
**DOMAIN NAME DISPUTE**  
**ADMINISTRATIVE PANEL**  
**DECISION**

CIIDRC case number:	18847-CDRP	Revised Decision date: January 25, 2023
Domain Name:	<b>wsib-on.ca</b>	
Panel:	<b>Melvyn J. Simburg</b>	
Complainant:	<b>Workplace Safety and Insurance Board</b>	
Complainant's representative:	<b>James Green of Gowling WLG</b>	
Registrant:	<b>Gregory Dickson</b>	

## 1. PROCEDURAL HISTORY

The procedural history of this case was set out in a letter from the Canadian International Internet Dispute Resolution Centre to the Panel:

1.1. On December 5, 2022, James Green, counsel for Workplace Safety and Insurance Board (“**WSIB**”), filed a Complaint pursuant to the CDRP and the Resolution Rules.

1.2. On December 6, 2022, CIRA was notified of this proceeding. On the same date, CIRA transmitted by email to CIIDRC its verification response informing who is the Registrant of the disputed domain name. CIRA also confirmed that the <wsib-on.ca> domain name was placed on a Registrar LOCK.

1.3. On December 6, 2022, CIIDRC, as Service Provider, confirmed compliance of the Complaint and commencement of the dispute resolution process.

1.4. Pursuant to Resolution Rule 4.4, CIIDRC notified the Registrant of this administrative proceeding and forwarded a copy of the complaint and its commencement letter to Registrant via email.

1.5. The Registrant failed to file its response by the due date of December 27, 2022.

1.6. The Complainant in this administrative proceeding has elected for a Panel consisting of a single-member.

1.7. CIIDRC appointed Melvyn J. Simburg as the single-member Panel on January 5, 2023.

1.8 On January 9, 2023 Melvyn J. Simburg accepted the appointment. As required by paragraph 7 of the UDRP Rules, the Panelist has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as there are no circumstances known to him that would prevent him from so acting. The Panel finds that it is properly constituted.

1.9. The Domain Name was registered on August 24, 2022.

This matter is conducted pursuant to the Canadian Dispute Resolution Policy (the CDRP) and the Canadian Dispute Resolution Rules (the Resolution Rules) of the Canadian Internet Registry Authority.

## 2. FACTS ALLEGED BY THE PARTIES

### Complainant Alleges:

2.1. The Complainant, WSIB, is a statutory corporation and an independent agency of the government of the Province of Ontario, pursuant to Part XIII of the *Workplace Safety and Insurance Act, 1997, S.O. 1997, c 16, Sched A. ("Workplace Safety and Insurance Act")*, operating at arm's length from the Ontario Ministry of Labour, Immigration, Training and Skills Development.

2.2. WSIB is the workplace compensation board for provincially-regulated workplaces in the Province of Ontario. WSIB is one of the largest compensation boards in North America, and is primarily responsible for administering and enforcing the *Workplace Safety and Insurance Act*. WSIB is also occasionally subrogated to the rights of injured workers to sue for their workplace related injuries, including injuries occurring outside of the Province of Ontario.

2.3. WSIB is the owner of a series of Canadian Official Marks consisting of or comprising "WSIB", for which public notice has been given by the Canadian Registrar of Trademarks pursuant to s. 9(1)(n)(iii) of the *Trademarks Act*. WSIB uses these WSIB Marks (as defined herein) in carrying out its operations in Canada.

2.4. The Complainant has also registered and used its own WSIB-formative domain names for over 20 years, including [www.wsib.on.ca](http://www.wsib.on.ca) and [www.wsib.ca](http://www.wsib.ca). In addition to hosting websites at these domain names, WSIB hosts "@wsib.on.ca" email addresses which are used by its employees in carrying out WSIB's activities.

2.5. Without the permission of the Complainant, the Registrant registered the Domain Name **<wsib-on.ca>** on August 24, 2022.

2.6. The Domain Name does not currently resolve to any active website.

2.7. The Registrant, or others acting on its behalf, issued fraudulent email correspondence from fake email addresses hosted at the www.wsib-on.ca Domain Name impersonating actual WSIB employees by mimicking their actual “@wsib.on.ca” domain names. The fake email addresses hosted at the Domain Name used by the Registrant were identical but for the placement of a hyphen in the fake addresses (@wsib-on.ca) in place of a period in WSIB’s actual email addresses (@wsib.on.ca).

2.8. More particularly, using a fake email address associated with the Domain Name to impersonate an in-house counsel employed by WSIB, the Registrant purported to instruct one of WSIB’s external counsel to redirect funds held by external counsel in trust for WSIB to an account controlled by the Registrant by wire transfer.

2.9. This fraud attempt was discovered when WSIB’s external counsel spoke to WSIB’s in-house counsel by phone. During that call, WSIB’s in-house counsel advised external counsel that he had not instructed the transfer of the funds. Despite the Registrant’s efforts, the settlement funds were not transferred to the Registrant.

2.10. This fraud attempt was immediately reported to law enforcement authorities in the United States, and it is the Complainant’s understanding that a criminal investigation is ongoing.

2.11. The Registrant’s use of the Domain Name, through the Respondent’s fake email addresses and fake email correspondence impersonating WSIB employees, was and is intended to deceive third parties and commit fraud. These activities are highly disruptive and harmful to WSIB, its operations, and its reputation.

2.12. The Registrant has not been authorized to register the Domain Name, host email addresses at the Domain Name, host a website at the Domain Name, or otherwise carry on any type of business or activities using the Domain Name. Nor has the Complainant granted the Registrant any permission, right, or license to use any of the WSIB Marks in association with its activities.

### **3. CONTENTIONS OF THE PARTIES**

- **Complainant**

3.1. WSIB is a statutory corporation and an independent agency of the government of the Province of Ontario, pursuant to Part XIII of the Ontario *Workplace Safety and Insurance Act*, operating at arm’s length from the Ontario Ministry of Labour, Immigration, Training and Skills Development.

3.2. WSIB is the workplace compensation board for provincially-regulated workplaces in Ontario. WSIB is one of the largest compensation boards in North America, and is primarily responsible for administering and enforcing the *Workplace Safety and Insurance Act*. Every year, the WSIB receives approximately 250,000 claims and pays over \$2.5 billion in benefits. Coverage can include full medical care for people injured at work and wage replacement until they are able to return to work. WSIB is also occasionally subrogated to the rights

of injured workers to sue for their workplace related injuries, including injuries occurring outside of the Province of Ontario.

3.3. Along with the *Workplace Safety and Insurance Act*, a Memorandum of Understanding between the Minister of Labour, Immigration, Training and Skills Development and the WSIB, and a Mandate Letter issued by the Minister to the WSIB, set out the WSIB's various responsibilities. Copies of these documents are attached as **Annex 5** and **Annex 6** to the Complaint.

3.4. WSIB is a Canadian public authority within the meaning of s. 9 of the *Trademarks Act*, and is the owner of a series of Canadian Official Marks consisting of or comprising "WSIB", for which public notice has been given by the Canadian Registrar of Trademarks pursuant to s. 9(1)(n)(iii) of the *Trademarks Act*.

3.5. These rights include Official Mark No. 0924428 for the mark WSIB. Attached as **Annex 2** is a certified copy of this Official Mark obtained from the Canadian Intellectual Property Office together with certified copies of other WSIB-formative Canadian Official Marks owned by the Complainant (collectively the "**WSIB Marks**") as shown below:

<u>Official Mark</u>	<u>Official Mark No.</u>
WSIB	0924428
	0925563
	0922713
	0922714
	0925571
	0925576
	0925575

3.6. WSIB uses the WSIB Marks in carrying out its operations in Canada. Pursuant to s. 9(1)(n)(iii) of the *Trademarks Act*, it is prohibited for any other person to adopt, use, or register any of the WSIB Marks in association with any goods and services in Canada, without the consent of WSIB.

3.7. The Complainant has also registered and used its own WSIB-formative domain names for over 20 years, including [www.wsib.on.ca](http://www.wsib.on.ca) and [www.wsib.ca](http://www.wsib.ca). In addition to hosting websites at these domain names, WSIB hosts “@wsib.on.ca” email addresses which are used by its employees in carrying out WSIB’s activities. Copies of “WHOIS” reports for both the [www.wsib.on.ca](http://www.wsib.on.ca) and [www.wsib.ca](http://www.wsib.ca) domain names showing WSIB’s longstanding registration of those domain names are attached as **Annex 8** to the Complaint.

3.8. There has never been any relationship between WSIB and the Registrant. The Registrant is not licensed or otherwise authorized, be it directly or indirectly, to register or use any of the WSIB Marks in any manner whatsoever, including in, or as part of, the Domain Name.

3.9. Without WSIB’s permission, the Registrant registered the Domain Name on August 24, 2022. To the Complainant’s knowledge, at all relevant times the registrant information for the Domain Name has been privacy protected. A copy of the WHOIS information for the Domain Name is attached at **Annex 1** to the Complaint.

3.10. The Domain Name is not currently used to host any active website.

3.11. However, email addresses associated with the Domain Name have been used in a sophisticated and targeted fraud attempt.

3.12. The Registrant, or others acting on its behalf, issued fraudulent email correspondence from fake email addresses hosted at the [www.wsib-on.ca](http://www.wsib-on.ca) Domain Name impersonating actual WSIB employees by mimicking their actual “@wsib.on.ca” domain names. The fake email addresses used by the Registrant were identical but for the placement of a hyphen in the fake addresses (@wsib-on.ca) in place of a period in WSIB’s actual email addresses (@wsib.on.ca).

3.13. Specifically, the Registrant has used a fake email address associated with the Domain Name to impersonate an in-house counsel employed by WSIB, named Mr. Jean-Denis Belec, employed with WSIB’s Legal Services Division. Mr. Belec’s actual WSIB email address is [jean-denis\\_belec@wsib.on.ca](mailto:jean-denis_belec@wsib.on.ca).

3.14. In his role as in-house counsel, Mr. Belec has had carriage of a matter where WSIB was subrogated to the rights of an injured Ontario worker in respect of a motor vehicle accident occurring in the State of Michigan on August 8, 2018 (the “**Michigan Claim**”).

3.15. In cases where the WSIB is subrogated and decides to pursue a claim, it brings the lawsuit in the name of the injured worker but controls all aspects of the litigation, including exercising authority to settle the claim. In a case like the Michigan Claim, where the injuries at issue suffered by the worker took place outside of Ontario, WSIB retains local counsel to conduct the subrogated litigation.

3.16. For the Michigan Claim, WSIB retained the services of Mr. Rick Eckerson, a United States lawyer based in Houston, Texas. Mr. Eckerson's conduct of the U.S. litigation in the Michigan Claim on behalf of WSIB was instructed by Mr. Belec.

3.17. The Michigan Claim was settled in the summer of 2022, after which Mr. Eckerson received proceeds from the settlement which were held in trust by Mr. Eckerson's law firm. Subsequently, Mr. Belec instructed Mr. Eckerson to send WSIB the net settlement proceeds (less legal fees and disbursements) on August 22, 2022.

3.18. However, on August 26, 2022, Mr. Eckerson received a series of emails falsely purporting to be from Mr. Belec asking for the settlement funds from the Michigan Claim to be sent to his attention via wire transfer, the first of which is attached as **Annex 9** to the Complaint.

3.19. However, the email was not sent by Mr. Belec, but was instead sent by the Registrant (or someone acting on their behalf) impersonating Mr. Belec using a fake email address hosted at the Domain Name for Mr. Belec with the "wsib" and "on" portions separated by a hyphen (jean-denis\_belec@wsib-on.ca) rather than Mr. Belec's genuine email address with the "wsib" and "on" portions separated by a period (jean-denis\_belec@wsib.on.ca).

3.20. On the same date, Mr. Eckerson replied to the email, requesting that the "fake" Mr. Belec re-forward a copy of the wiring instructions. A copy of that email is attached to the Complaint as **Annex 10**.

3.21. On the same date, the "fake" Mr. Belec replied, copying on the emails (by cc) two other "fake" WSIB employee email addresses hosted at the Domain Name in the names of actual WSIB employees: Diana Brienza (diana\_brienza@wsib-on.ca) and Pargana Akbari (pargana\_akbari@wsib-on.ca) as shown on **Annex 11** to the Complaint.

3.22. In that email, the "fake" Mr. Belec advised Mr. Eckerson to contact yet another "fake" WSIB employee by telephone if further information was required in respect of the wire transfer. The telephone number provided for that other individual was an 812 area code telephone number (the area code for Bloomington, Indiana). WSIB does not maintain any offices or telephone numbers with an 812 area code, or otherwise, in Bloomington, Indiana. WSIB's offices are located in Toronto, Ontario.

3.23. The "fake" Mr. Belec then followed up again with Mr. Eckerson on the same day, requesting that Mr. Eckerson confirm receipt of the prior information and wire information, and requesting that "*an ETA of when we can expect the wire so we can inform our agent collectors to be on the lookout*" as attached to the Complaint as **Annex 12**.

3.24. On August 29, 2022, when the wire transfer requested by the "fake" Mr. Belec had not yet gone through, the "fake" Mr. Belec again emailed Mr. Eckerson this time providing different wire information for the transfer in a document with the misspelled file name "Microsoft Word – Wiring Instrcutions.pdf" as attached to the Complaint as **Annex 13**.

3.25. While this was happening on the morning of August 29, 2022, when the “real” Mr. Belec logged on to his work email account, without any prior warning or explanation, he began to receive a large volume of “spam” emails at a rate of approximately 10 spam emails per minute, continuing for roughly an hour. Mr. Belec’s work phone also began ringing frequently, with incoming calls from United States-based area codes that Mr. Belec did not recognize. When this occurred, Mr. Belec immediately reported these issues to WSIB’s IT department. Eventually, the spam emails sent to Mr. Belec’s email account ceased.

3.26. It appears that the massive amounts of spam emails and unwanted telephone calls to the “real” Mr. Belec were directed by the Registrant or others acting on its behalf as part of the intended fraud, in order to distract Mr. Belec and render him unreachable by email or phone in the event that Mr. Eckerson attempted to contact him to verify the wire information provided by the “fake” Mr. Belec before initiating the wire transfer to the “fake” Mr. Belec.

3.27. As recognized by numerous third-party articles and reference sources, the sudden receipt of a flood of spam email is a well-known technique used by fraudsters as a “screen” for an active fraud attempt. This distraction or screening technique is sometimes referred to as an “email bomb” or “distributed spam distraction”. As stated in one article about this technique attached to the Complaint as **Annex 15**:

*Although the attack, while under way, makes it almost impossible to use one's email account, the real point is to distract the user from valid email, which will likely include confirmations of purchase receipts or balance transfers from fraudulent transactions made with the victim's credentials.*

*"The attackers, just before they make the illegal transactions, turn on this deluge of spam email in order for these very important emails to get lost in the flood. Once the bad guys are done with their activities they'll stop the flood," Touchette wrote.*

[...]

*Murchu said the distraction or flooding technique is not confined to email either. "We have also heard reports of users receiving continuous phone calls in order to prevent the fraud department of banks from reaching the victim," he said, "and although details are sparse right now, we have also heard reports about this smoke-screen method being used to hide text messages from banks."*

3.28. Similarly, as stated in an article on the subject published by the Ontario Securities Commission attached to the Complaint as **Annex 16**:

*An email bomb is a distraction technique used by cyber fraudsters to bury legitimate transaction and security messages in your inbox with hundreds or even thousands of duplicate junk emails. You may receive newsletter signups, online forum messages and other emails from websites you've never visited. The fraudster hopes that by overloading your inbox, you'll miss important emails like account sign-in attempts, updates to contact information, financial transaction details or online order confirmations. These activities may not have originated from you but rather, the fraudster.*

3.29. Mr. Eckerson was suspicious of the emails from the “fake” Mr. Belec given the unusual and awkward language used. As a result, he made efforts to speak with the “real” Mr. Belec by phone on the afternoon of August 29, 2022 to discuss the wire transfer. During that phone call, Mr. Eckerson was advised by Mr. Belec that neither Mr. Belec nor anyone else at WSIB had instructed Mr. Eckerson to make such a wire transfer. At

that time, the Registrant's use of the fraudulent and confusingly similar @wsib-on.ca email addresses and impersonation of Mr. Belec was fully revealed.

3.30. Fortunately, the attempted wire transfer of the funds to the Registrant was not completed.

3.31. This fraud attempt was immediately reported by Mr. Eckerson to law enforcement authorities in the United States (Federal Bureau of Investigation – FBI), and it is the Complainant's understanding that a criminal investigation is ongoing. The Registrant's misuse of the Domain Name in carrying out this attempted fraud was also reported to the Registrar for the Domain Name and the Registrant's web host for the Domain Name.

3.32. In sum, the Registrant's activities with the Domain Name, including its use of fake email addresses impersonating actual WSIB employees hosted at the Domain Name, have made unauthorized use of the WSIB Marks, all in attempt to carry out a sophisticated and targeted fraud attempt.

- **Registrant**

The Registrant has not responded to the Complaint.

- **Remedy Sought**

The Complainant requests the Domain Name be transferred to Complainant.

## **4. DISCUSSION AND FINDINGS**

### **4.1 Eligibility**

The Complainant is an eligible complainant under paragraph 1.4 of the CDRP. The Complainant is a statutory corporation and an independent agency of the government of the Province of Ontario, pursuant to Part XIII of the *Workplace Safety and Insurance Act, 1997, S.O. 1997, c 16, Sched A. ("Workplace Safety and Insurance Act")*, operating at arm's length from the Ontario Ministry of Labour, Immigration, Training and Skills Development. In addition, because the Complaint relates to a trademark registered in the Canadian Intellectual Property Office and the Complainant is the owner of the trademark, no geographic presence is required.

### **4.2 Requirements**

In accordance with Paragraph 4.1 of the CDRP, the onus is on the Complainant to prove:

1. That the Domain Name is Identical or Confusingly Similar to a trademark or service mark in which the Complainant has rights:
2. That the Registrant has no rights or legitimate interests in the Domain Name; and
3. That the Domain Name has been registered and is being used in bad faith.

The Panel will consider each of these requirements in turn.



### 4.3 Analysis

#### 4.3.1 That the Domain Name is Confusingly Similar to a Mark in which the Complainant has Rights

4.3.1.1. The WSIB Marks, as official marks obtained pursuant to the *Trademarks Act*, are perpetual rights, remain in use in Canada by WSIB, and are in all ways in good standing with the Canadian Registrar of Trademarks. The WSIB Marks are “Marks” within the meaning of paragraph 3.2(d) of the Policy, being “*the alphanumeric and punctuation elements of any badge, crest, emblem or mark in respect of which the Registrar of Trademarks has given public notice of adoption and use pursuant to paragraph 9(1)(n) of the Trademarks Act.*” Accordingly, WSIB has and continues to have enforceable prior rights in the WSIB Marks for the purposes of the Policy.

4.3.1.2. For its part, the Registrant registered the Domain Name on August 24, 2022, decades after WSIB first adopted and used the WSIB Trademarks in Canada, and many years after the Registrar of Trademarks gave public notice of the earliest of the WSIB Marks on February 22, 2017

4.3.1.3. Under paragraph 3.3 of the Policy, a domain name will be found to be confusingly similar to a complainant’s mark if it so nearly resembles it in appearance, sound, or ideas suggested so as to be likely to be mistaken for the trademark. This test is one of first impression and imperfect recollection. Further, paragraph 1.2 of the Policy provides that a domain name for the purposes of this analysis excludes the “dot-ca” suffix.

4.3.1.4. The Domain Name is <**wsib-on.ca**>. The first, distinctive, striking, and dominant element of the Domain Name is the element “WSIB”. The Domain Name incorporates the whole of WSIB’s Official Mark No. 0924428 (WSIB). Included in the Domain Name is the non-distinctive, descriptive element “on”, which is an obvious and commonly used abbreviation for “Ontario”, the Province in Canada where the WSIB is based. The addition of descriptive or non-distinctive words, letters, or elements such as “on” in a disputed domain name together with the whole of a complainant’s trademark will not preclude a finding of confusing similarity. (*Oakley, Inc v Zhou Yayang, Case No. DCA-1377-CIRA at para 17 and cases cited therein.*)

4.3.1.5. The addition of the term “on” does not distinguish the Domain Name from the WSIB Marks. To the contrary, the addition of the term “on” enhances the likelihood of confusion given that WSIB itself uses the similarly structured domain name [www.wsib.on.ca](http://www.wsib.on.ca) to indicate its connection to the Province of Ontario.

4.3.1.6. In similar circumstances, prior CDRP panels have recognized that the addition of similar abbreviations for the names of Provinces of Canada, such as “qc” for “Quebec”, do not serve to dispel confusing similarity. (*Google Inc. v David Perron, Case No. DCA-1360-CIRA at para 18.*)

4.3.1.7. For the above reasons, the Panel concludes that the Disputed Domain Name is confusingly similar to a mark in which Complainants have rights.

#### 4.3.2 That the Registrant has No Legitimate Interest in the Domain Name

4.3.2.1. In cases where a domain name is an exact match for a brand owner's trademark, the initial assumption will be that a registrant does not have a legitimate interest in said domain absent an agreement to the contrary between the parties.

4.3.2.2. The Registrant fails to meet any of the enumerated legitimate interests set out in section 3.4 of the Policy. First, with respect to paragraph 3.4(a), there is no indication that the Domain Name has been legitimately used as a mark by the Registrant for the purpose of distinguishing the goods, services, or business of the Registrant from those of others. Nor does the Registrant otherwise have any rights arising through use of the Domain Name as a trademark.

4.3.2.3. To the extent of the evidence presented, the Registrant has not actually carried on any business in Canada in association with the Domain Name. No active website is being hosted at the Domain Name, and the only known use of the Domain Name (to host fake email addresses impersonating actual WSIB employees in communications with third parties) has been for the purpose of carrying out fraud.

4.3.2.4. Second, with respect to paragraph 3.4(b), the Registrant has not used the Domain Name in association with any goods, services or business and the registered domain name is not clearly descriptive in the manner required by paragraph 3.4(b). The WSIB Marks are distinctive of the Complainant. The Domain Name is not and would not be understood in Canada to be clearly descriptive in any of the ways recognized by this paragraph of the Policy.

4.3.2.5. Third, with respect to paragraph 3.4(c), the Domain Name is not generic of any goods, services, or business. From the evidence presented, it cannot be found that the Domain Name was acquired in good faith or for any *bona fide* purpose.

4.3.2.6. Fourth, with respect to paragraph 3.4(d), the Registrant has never used the Domain Name in association with any non-commercial activity. And currently, the Domain Name is not being used to host any active website for any legitimate non-commercial activity.

4.3.2.7. Fifth, with respect to paragraph 3.4(e), "WSIB-ON" is not a legal name, surname, or other reference by which the Registrant is commonly identified.

4.3.2.8. Lastly, with respect to paragraph 3.4(f), the Domain Name is not the geographical name of the location of the Registrant's non-commercial activities or place of business.

4.3.2.9. The evidence shows that the Registrant has used the Domain Name to attempt to defraud WSIB. In cases of fraud, CIRA and UDRP panels have routinely shifted the burden to the registrant to prove evidence showing a legitimate interest in the disputed domain name. Where such evidence is not provided, panels have

ordered the transfer of domains used for such purposes. (See e.g.: *Magna International Inc. v Unknown*, DCA-1754-CIRA; *Magna International Inc. v Mustafa Mashari*, D2015-0645.)

4.3.2.10. More particularly, prior UDRP panels have found that fraud attempts factually similar to that in the present case, featuring the use of a disputed domain name in an email address incorporating a username identical to that of an employee of a complainant, and using that email address in an attempt to deceptively solicit the wire transfer of funds from a party with whom the complainant does business, cannot establish rights or legitimate interests in a domain name. (*Lennar Pacific Properties Management, Inc. and Lennar Title, LLC v. Contact Privacy Inc.*, Case No. D2020-0372; *Fenwick & West LLP v. Privacy Service Provided by Withheld for Privacy ehf / Be Fast*, Case No. D2022-0835.)

4.3.2.11. The Panel concludes that the Respondent has no rights or legitimate interest in the Disputed Domain Name.

### **4.3.3 That the Registrant has Registered the Domain Name in Bad Faith**

4.3.3.1. In light of WSIB's prior rights in its WSIB Marks, its prior registration of very similar domain names featuring those marks (such as [wsib.on.ca](http://wsib.on.ca) and [wsib.ca](http://wsib.ca)), and the nature of the Registrant's fraudulent activities, it must be concluded that the Registrant had knowledge of the WSIB Marks at the time of registration.

4.3.3.2. The Registrant has never been licensed or otherwise authorized, directly or indirectly, to register or use any of the WSIB Marks in any manner whatsoever, including as or as part of the Domain Name.

4.3.3.3. Bad faith registration may be demonstrated based on the grounds enumerated in paragraph 3.5 of the Policy as well as the surrounding circumstances. In making a finding of bad faith, reasonable inferences may be drawn from the available evidence. The Registrant's use of the Domain name in this case is intended to trade off and disrupt the goodwill and reputation in and to the WSIB Marks for the purpose of committing fraud.

4.3.3.4. Registrant failed to respond to Complainants' request to transfer the domain name. Failure to respond reinforces a finding of bad faith because a reasonable person with a legitimate claim to a domain name would likely respond with a correction or denial.

4.3.3.5. WSIB uses its own [www.wsib.on.ca](http://www.wsib.on.ca) domain name and email addresses hosted at that domain name to carry on its operations, and communicate with third parties. Any association with the Registrant's attempted fraud is certain to harm the valuable goodwill in the WSIB Marks and constitute a serious disruption to WSIB's operations, quite apart from any potential pecuniary losses arising from any acts of fraud which the Registrant is able to successfully carry out.

4.3.3.6. It is not necessary for a registrant to compete directly with a complainant by attempting to sell goods and services that are similar to the complainant's, to fall within the meaning of paragraph 3.5(c) of the Policy. The fact that a registrant "competes" with a complainant by capitalizing on third-party confusion resulting

from use of the domain name makes a registrant a competitor, and causes disruption to the complainant within the meaning of this paragraph. (*Amazon.com v David Abraham, DCA-784-CIRA.*)

4.3.3.7. The Registrant's activities also demonstrate bad faith under paragraph 3.5(d). If a consumer or Internet user is attracted to a registrant's website by the use of the complainant's trademark in the domain name, a visitor is likely to be confused and misled as to the source, sponsorship, affiliation or endorsement of that registrant's website and the products offered for sale therein. (*Oakley, Inc v Zhou Yayang, Case No. DCA-1377-CIRA* at para 30).

4.3.3.8. The Domain Name has taken the whole of, and is confusingly similar to, the WSIB Marks, and has been used to host fake email accounts to perpetrate acts of fraud by fraudulent communications sent to third parties.

4.3.3.9. The evidence supports a finding that the Domain Name was registered for the express purpose of perpetrating a targeted and sophisticated fraud attempt against WSIB. The Registrant created email addresses hosted at the Domain Name impersonating actual WSIB employees, all within days of registering the Domain Name.

4.3.3.10. The use of a domain name likely to be confused with a complainant's mark for purposes of fraudulent scams and schemes has previously been found to satisfy paragraph 3.5(d) of the Policy. (*Huron Consulting Group, Inc. v Martine Colas, DCA-1829-CIRA.*)

4.3.3.6. The panel concludes that the Registrant has registered the domain name primarily for the purpose of disrupting the business of Complainant, or has intentionally attempted to attract, for commercial gain, Internet users to the Registrant's website, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or of a product or service on the Registrant's website or location.

## 5 DECISION and ORDER

For the above reasons, in accordance with Paragraph 4 of the CDRP, and Paragraph 12 of the Resolution Rules, the Panel orders that the Complainant is entitled to transfer of the domain name "wsib-on.ca" from the Registrant to the Complainant Workplace Safety and Insurance Board. Once Complainant provides CIRA with the contact information necessary for the transfer and at least 30 days have elapsed thereafter, CIRA is to transfer the domain name in accordance with Complainant's instructions, this Decision, and CIRA policies.

Made as of January 25, 2023

SIGNATURE OF PANEL

  
Melvyn J. Simburg