

ADMINISTRATIVE PANEL DECISION

American Farm Bureau Federation v. Portfolio16 Management Ltd.
Case No. D2023-1310

1. The Parties

The Complainant is American Farm Bureau Federation, United States of America (“United States”), represented by Greenberg Traurig, LLP, United States.

The Respondent is Portfolio16 Management Ltd., Costa Rica.

2. The Domain Name and Registrar

The disputed domain name <txfbins.com> is registered with PSI-USA, Inc. dba Domain Robot (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 27, 2023. On March 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 29, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name(s) which differed from the named Respondent (Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 30, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on April 4, 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 the Respondent of the Complaint, and the proceedings commenced on April 12, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 2, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 3, 2023.

The Center appointed John Swinson as the sole panelist in this matter on May 5, 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 a national advocate for farmers, ranchers, and rural communities in the United States.

The Complainant owns trademark registrations including United States Registration No. 4129805 for TEXAS FARM BUREAU and device, and United States Registration No. 4129806 for TEXAS FARM BUREAU INSURANCE and device. Both these registrations have a registration date of April 17, 2012.

The Complainant has licensed the Texas Farm Bureau to use these trademarks. The Texas Farm Bureau was founded in 1933 and has over 500,000 member families. The Texas Farm Bureau owns or controls a series of insurance companies that provide insurance services to its members including the Texas Farm Bureau Mutual Insurance Company founded in 1950.

The Complainant owns and operates a website at the domain name <txfb-ins.com> in respect of the Texas Farm Bureau insurance services. According to the Complainant, this website was created in 1998 and has been in continuous use since that time.

The disputed domain name was registered on January 14, 2000.

The Respondent did not file a Response, so little information is known about the Respondent. According to the Registrar's records, the Respondent has an address in Costa Rica.

The website at the disputed domain name is primarily a pay-per-click ("PPC") website that has advertising links with titles such as "Texas Farm Bureau" and "Farm Bureau Insurance". The website does not identify the owner or operator of the website. The privacy policy on the website states "The advertising content of this website is provided via the advertising technology platform of Team Internet AG, Liebherrstr. 22, 80538 Munich, Germany. ... Team Internet AG is not the domain owner and controller, and Team Internet AG is not responsible for the content of this website and the data processing in the context of the provisioning of this website".

The disputed domain name has active MX (mail exchange) records. The disputed domain name is listed for sale on the Afternic platform.

5. Parties' Contentions

A. Complainant

In summary, the Complainant makes the following submissions:

In addition to the registered trademark rights (referred to in Section 3 above), the Complainant has extremely strong common law rights in TEXAS FARM BUREAU and TEXAS FARM BUREAU INSURANCE. The Complainant has used the TEXAS FARM BUREAU trademark for over 70 years, since as early as 1952, and created its website at <txfb-ins.com> in 1998, which it is has continuously used in commerce since that date.

Numerous panels have held that use of an acronym and/or abbreviation of the Complainant's trademark does not dispel confusion and is sufficient for a finding of confusing similarity.

The Respondent registered the disputed domain name without authorization from the Complainant. The Respondent is not commonly known by the disputed domain name, has not used or prepared to use the

disputed domain name in connection with a *bona fide* offering of goods or services, and has not been authorized, licensed, or otherwise permitted by the Complainant to register and/or use the disputed domain name.

The Respondent is using the disputed domain name to divert Internet traffic to websites that contain PPC or affiliate advertising links that redirect to websites that are competitive with the Complainant. This use of the disputed domain name to generate PPC or affiliate advertising revenue for the Respondent does not demonstrate rights or legitimate interests and does not constitute a protected non-commercial or fair use of the disputed domain name.

This also demonstrates bad faith registration and use under Paragraphs 4(b)(iii) and (iv) of the Policy.

Active MX records also indicate use for email, which evidences a likelihood of additional bad-faith use of the disputed domain name to engage in fraudulent email or phishing communications.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the 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.

The *onus* of proving these elements is on the Complainant.

Paragraph 15(a) of the Rules directs the Panel to decide the 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.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy provides that the Complainant must establish that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

As set out in Section 4 above, the Complainant has registered trademarks for TEXAS FARM BUREAU and TEXAS FARM BUREAU INSURANCE.

Previous UDRP panels have consistently held that domain names are identical or confusingly similar to a trademark for purposes of the Policy when the domain name includes the trademark, or a confusingly similar approximation, disregarding the Top-Level Domain part of the domain name (e.g., disregarding the ".com" part of the domain name.)

Here, the disputed domain name may be an abbreviation of the Complainant's registered trademarks. The disputed domain name includes "tx" which is a well-known abbreviation for "Texas", "fb" which is an abbreviation for "farm bureau", and "ins" which is an abbreviation for "insurance".

Prior panels have found that an abbreviation in a domain name can be confusingly similar to a trademark from which the abbreviation derives. See, for example, *Credit Suisse Group v. Credit Suisse Group*, WIPO Case No. [D2005-0213](#); and *Philip Morris USA Inc. v. Steven Scully, J&S Auto Repair*, WIPO Case No. [D2015-1001](#).

It is well established that the content of the Respondent's website is normally disregarded when assessing confusing similarity under the first element of the Policy. The test is to be conducted by way of a side-by-side comparison of the Complainant's trademark and the disputed domain name. *Harry Winston Inc. and Harry Winston S.A. v. Jennifer Katherman*, WIPO Case No. [D2008-1267](#).

However, in certain circumstances, it is permissible for the Panel to consider the website at the disputed domain name to gain an indication of the Respondent's intention with the disputed domain name. *Fenix International Limited v. Privacy services provided by Withheld for Privacy ehf / Darko Milosevic, Rocket Science Group*, WIPO Case No. [D2022-1875](#).

In the present case, the Panel reviewed the website at the disputed domain name and can draw the conclusion that the content of the website confirms confusing similarity since it appears *prima facie* that the Respondent sought to target the Complainant and the Complainant's trademark through the disputed domain name. Further, considering the content on the website at the disputed domain name, the Panel concludes that the letters "txfb" in the disputed domain name are references to the Complainant and the Complainant's trademark. See section 1.15 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Panel notes also that the Complainant's domain name <txfb-ins.com> is similar to the disputed domain name.

In the circumstances, the Panel concludes that the disputed domain name is confusingly similar to the Complainant's TEXAS FARM BUREAU INSURANCE trademark.

The Complainant succeeds on the first element of the Policy.

B. Rights or Legitimate Interests

The Complainant's allegations to support the Respondent's lack of rights or legitimate interests in the disputed domain name are set out in Section 5A above.

There is no evidence that the Respondent is commonly known by the disputed domain name.

Use of a domain name to resolve to a PPC advertising page, where the advertising is relevant to the trademark value of the domain name, does not establish rights or legitimate interests in respect of the disputed domain name. *UnitedHealth Group Incorporated v. Privacy Protection / Domain Administrator*, WIPO Case No. [D2021-4334](#).

None of the circumstances listed in paragraph 4(c) of the Policy apply in the present circumstances.

Having regard to all these matters, the Panel finds that the *prima facie* case established by the Complainant has not been rebutted by the Respondent and the Complainant succeeds on the second element of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that the Complainant must establish that the Respondent registered and subsequently used the disputed domain name in bad faith.

Generally speaking, a finding that a domain name has been registered and is being used in bad faith requires an inference to be drawn that the respondent in question has registered and is using the disputed domain name to take advantage of its significance as a trademark owned by the complainant. *Fifth Street Capital LLC v. Fluder (aka Pierre Olivier Fluder)*, WIPO Case No. [D2014-1747](#).

The disputed domain name was registered before the Complainant registered its trademarks referred to above. However, the Complainant has also provided evidence of longstanding use and reputation prior to the Respondent registering the disputed domain name. In particular, the Complainant registered and commenced use of its domain name <txfb-ins.com>, which is similar to the disputed domain name, two years prior to the Respondent registering the disputed domain name.

The Respondent's conduct demonstrates the Respondent's knowledge of the Complainant and the Complainant's trademark. By registering the disputed domain name after the Complainant started to use and advertise its similar domain name, and then by using the disputed domain name to generate PPC traffic that refer to the Complainant, demonstrates that the Respondent specifically knew of and targeted the Complainant. See *Fédération Française de Tennis (FFT) v. Daniel Hall, dotCHAT, Inc.*, [WIPO Case No. D2016-1941](#).

Additionally, the Complainant has provided evidence that the MX records for the disputed domain name have been activated for email functionality. In the present case, this is circumstantial evidence that the disputed domain name could have been registered to conduct email scams.

The Respondent has not filed a Response and hence has not availed itself of the opportunity to present any case of good faith that it might have. The Panel infers that none exists.

The Panel finds that the Respondent has intentionally attempted to attract for commercial gain Internet users to its website by creating likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the website under paragraph 4(b)(iv) of the Policy. This also could disrupt the business of the Complainant.

The Panel finds that the Respondent has both registered and used the disputed domain name in bad faith.

The Complainant succeeds on the third element of the Policy in relation to the disputed domain name.

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 <txfbins.com> be transferred to the Complainant.

/John Swinson/

John Swinson

Sole Panelist

Date: May 13, 2023