

ADMINISTRATIVE PANEL DECISION

Freeman Holdings, LLC v. Mohan Reddy C R
Case No. D2023-4427

1. The Parties

The Complainant is Freeman Holdings, LLC, United States of America (“United States” or “U.S.”), represented by Vedder Price P. C., United States.

The Respondent is Mohan Reddy C R, India.

2. The Domain Name and Registrar

The disputed domain name <exhibitorsfreeman.com> is registered with Wild West Domains, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 25, 2023. On October 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 26, 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 the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 31, 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 November 3, 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 November 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 30, 2023. The Respondent sent email communications on November 13 and 21, 2023.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on December 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, Freeman Holdings, LLC, is a global event planning and management company. The Complainant has been known by the name “Freeman” and related marks for decades. The Complainant has continuously used the trademark FREEMAN in commerce to identify itself and its goods and services in the United States.

The Complainant is the owner of trademark rights on FREEMAN, covering goods and services related to exhibition and planning events services, as follows:

- U.S. trademark registration no. 2,645,625 for FREEMAN, in class 37, registered on November 5, 2002;
- U.S. trademark registration no. 5,518,973 for FREEMAN, in class 35, registered on July 18, 2018; and
- U.S. trademark registration no. 2,744,411 for EXHIBITPLANNER BY FREEMAN, in class 42, October 23, 2007.

The Complainant is the owner of the domain name <freeman.com>, registered on March 16, 1997.

The disputed domain name <exhibitorsfreeman.com> was registered on September 23, 2023 and resolves to an inactive website. However, the Respondent has communicated with the Complainant’s customers with the email address “[...]@exhibitorsfreeman.com,” impersonating the Complainant, for purposes of a phishing scam, as evidenced on Annex 7 (email dated October 18, 2023).

The Respondent was identified as Mohan Reddy C R, from India, a managing director from a company related to business and marketing services.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

The Complainant argues that the disputed domain name <exhibitorsfreeman.com> is identical or confusingly similar to the trademarks FREEMAN and EXHIBITPLANNER BY FREEMAN.

The disputed domain name resolves to an inactive website. However, emails were sent through the server of the disputed domain name, impersonating the Complainant and offering similar or related services to those of the Complainant.

There is no evidence that the Respondent has made demonstrable preparations to use the disputed domain name for legitimate purposes, nor is there any evidence that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods and services.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name. That being the case, the Complainant finds that the disputed domain name is used to take unfair advantage of the Complainant’s rights for commercial gain, since Internet users and the Complainant’s

clients would inevitably associate the content on the emails related to the disputed domain name with the Complainant's prior trademarks.

Moreover, the Complainant stresses that the Respondent is not commonly known by the names "freeman" and "exhibitplanner by freeman."

According to the Complainant, the Complainant has prior rights over the trademarks FREEMAN and EXHIBITPLANNER BY FREEMAN, and the Complainant has not authorized the registration and use of the disputed domain name, nor the use of its trade name and trademarks by the Respondent.

The Respondent is not affiliated to or authorized by the Complainant to use or register the disputed domain name.

The Complainant's intellectual property rights for FREEMAN and EXHIBITPLANNER BY FREEMAN trademarks predate the registration of the disputed domain name.

The Complainant also argues that the Respondent was aware of the Complainant's rights and has clearly registered the disputed domain name to target the Complainant's trademark, and that the registration of the disputed domain name was conducted in bad faith.

Previous UDRP panels have consistently recognized that registration of domain names, diverting the Internet users from the Complainant's website, is evidence of bad faith.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

On November 13, 2023, the Respondent sent an email replying to Complainant's contends, stating the following:

"Dear All,

I am writing to express our deepest apologies for the recent WIPO domain name dispute filed against your company regarding the domain name "exhibitorsfreeman.com". We have carefully reviewed our actions and regret to inform you that we inadvertently used a domain name that is identical or confusingly similar to your registered trademark "exhibitorsfreeman.com". Upon further investigation, we acknowledge that our initial claim to the "exhibitorsfreeman.com" domain name was based on an oversight in our trademark research process. We understand the confusion and potential harm this may have caused your company, and we sincerely apologize for any inconvenience or reputational damage it may have brought upon you. We take full responsibility for our error and are committed to rectifying the situation immediately. We have already initiated the process of withdrawing our WIPO domain name dispute claim. If there are any specific steps or actions you recommend in rectifying this matter further, we are open to your guidance and suggestions. Thank you for your understanding and patience as we address this issue. Your cooperation in resolving this matter is greatly appreciated.

Best regards,
Mohan Reddy"

On the same date, the Complainant informed that it did not wish to explore settlement options and preferred to pursue the Complaint against Respondent, as the Respondent failed to address the impersonation of Complainant in communications to Complainant's customers through a confusingly similar web domain and associated email address.

On November 21, 2023, the Respondent sent an e-mail in addition to its first message stating:

"[...]I am writing to inform you that we have successfully removed the domain [exhibitorsfreeman.com] from our servers and the internet. We have taken the following steps to remove the domain:

- Removed the domain from our DNS records
- Removed the domain from our web server
- Notified our upstream providers to remove the domain from their DNS records

We have also verified that the domain is no longer accessible from the internet.

Please note that it may take some time for the domain to disappear from the internet completely. However, we have taken steps to ensure that it is no longer functional.

Regards,
Mohan Reddy"

The aforementioned email was the last communication made by the Respondent. No official replies were sent to the Panel.

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to the trademarks or service marks in which the Complainant has rights; and
- (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.

A. Identical or Confusingly Similar

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.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Although the addition of other terms here, "exhibitors", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

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.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity as applicable to this case: phishing, impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that at the time the disputed domain name was registered, the Respondent was clearly aware of the FREEMAN trademarks as the Complainant’s trademark registrations as well as of its domain name. The Panel also notes that the Respondent directly contacted the Complainant’s customers to send fraudulent emails impersonating the Complainant and, as such, caused harm to the reputation of the Complainant.

The composition of the disputed domain name including the term “exhibitors” increases the level of confusing similarity with the Complainant’s trademarks and services.

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 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.

Panels have held that the use of a domain name for illegal activity, as applicable to this case: phishing and impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. The Panel notes that the Respondent, in its communications, did not address the matter of the Complainant’s email fraud scheme. Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy.

Based on the available record, 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, <exhibitorsfreeman.com> be transferred to the Complainant.

/Mario Soerensen Garcia/

Mario Soerensen Garcia

Sole Panelist

Date: December 19, 2023