

## **ADMINISTRATIVE PANEL DECISION**

Fragomen Global Immigration Services, LLC v. Mak Bheem  
Case No. D2024-0712

### **1. The Parties**

The Complainant is Fragomen Global Immigration Services, LLC, United States of America (“United States”), represented by Cowan, Liebowitz & Latman, PC, United States.

The Respondent is Mak Bheem, Bangladesh.

### **2. The Domain Names and Registrar**

The disputed domain names <fragomen-connect.com> and <fragomenconnect.com> are registered with Hosting Concepts B.V. d/b/a Registrar.eu (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 15, 2024. On February 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On February 19, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 20, 2024, 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 February 20, 2024.

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 March 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 24, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 2, 2024. Due to an apparent issue with the notification, on April 3, 2024, the Center granted the Respondent until April 8, 2024, to indicate if it would like to submit a Response. No communication was received from the Respondent.

The Center appointed Zoltán Takács as the sole panelist in this matter on April 15, 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**

Fragomen Global Immigration Services, LLC (“FGIS”) and Del Rey, Bernsen & Loewy, LLP (“Fragomen LLP”), hereinafter also referred to as “the Complainant” are two related companies; both belong to Fragomen Organization that offers legal advice and services concerning immigration since at least as early as 1951.

Fragomen Organization employs over 130 attorneys and over 1,000 professional immigration specialists and staff located in more than 40 offices in the Americas, Asia Pacific, Europe, the Middle East and Africa.

Fragomen LLP is the owner of the United States Trademark Registration No. 2906599 for the word mark FRAGOMEN registered since November 30, 2004, for visa and immigration services for corporations and individuals.

FGIS is the owner of the United States Trademark Registration No. 5525237 for the word mark FRAGOMEN CONNECT registered since July 24, 2018, for visa and immigration services for companies and individuals.

The Complainant owns the domain name <fragomen.com>, which was registered on June 27, 1996, and resolves to its principal website.

The disputed domain name <fragomen-connect.com> was registered on February 5, 2022.

The disputed domain name <fragomenconnect.com> was registered on February 8, 2022.

Both disputed domain names have been resolving to similar looking websites which directly reference the Fragomen Organization, copy the Complainant’s trademarks, and provide content related to the Complainant’s services in the field of immigration, along with a section for login.

#### **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 names.

Notably, the Complainant contends that:

- the disputed domain names are confusingly similar to its trademarks;
- the Respondent has no rights or legitimate interests in respect of the disputed domain names since it is unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii), or (iii) of the Policy; and
- the use of its trademarks on the websites at the disputed domain names shows the Respondent’s awareness of its trademarks at the time of registration of the disputed domain names and its intent to deceive Internet users into believing that the websites are operated by or at least affiliated with the Complainant.

The Complainant requests that the disputed domain names be transferred from the Respondent to the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that:

- (i) the domain names are 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 domain names; and
- (iii) the domain names have been registered and are 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 names. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

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 disputed domain name <fragomenconnect.com> replicates the Complainant's FRAGOMEN CONNECT trademark. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The disputed domain name <fragomen-connect.com> also replicates the Complainant's FRAGOMEN CONNECT trademark with the word elements "fragomen" and "connect" being separated with a dash. The mark is clearly recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar 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**

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 names. 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 names such as those enumerated in the Policy or otherwise.

The Respondent has no relationship whatsoever with the Complainant. It is not a licensee of the Complainant nor has the Respondent ever been authorized by the Complainant to register or use the Complainant's mark, much less as domain names.

As shown by the Complainant, by using the disputed domain names to direct Internet users to its own websites which directly reference the Fragomen Organization, copy its trademarks, and provide content related to Complainant's services the Respondent is effectively impersonating the Complainant. Considering how the disputed domain names are identical to the Complainant's trademark they carry a high risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

Panels have held that the use of a domain name for illegal activity – here impersonation / passing off - can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 the FRAGOMEN and FRAGOMEN CONNECT marks, which predate the date of registration of the disputed domain names, are distinctive and unique to the Complainant. A basic Internet search against the disputed domain names returns solely the Fragomen Organization's business in the field of immigration.

The websites at the disputed domain names prominently feature the Complainant's trademarks, directly reference the Fragomen Organization and provide content related to its services in the field of immigration. Also, the websites at the disputed domain names list contact particulars of Fragomen LLP's New York and San Jose based offices.

Thus, in view of the Panel it is clear that the Respondent had actual knowledge of the Complainant, its business and trademarks, and registered the disputed domain names to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's marks. Paragraph 4(b)(iv) of the Policy.

The Respondent's intent to target the Complainant's trademarks can be readily inferred from the contents of the Respondent's websites seeking to impersonate the Complainant by directing Internet traffic to its websites through impersonation or false association. Visitors of the Respondent's websites might reasonably believe that they are the Complainant's websites or websites at least approved by the Complainant, while that it clearly not the case. Panels have held that the use of a domain name for illegal activity, in this case impersonation/passing off constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

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 names <fragomen-connect.com> and <fragomenconnect.com> be transferred to the Complainant.

*/Zoltán Takács/*

**Zoltán Takács**

Sole Panelist

Date: April 29, 2024