

ADMINISTRATIVE PANEL DECISION

Republican Party of Florida v. Manuel Asensio
Case No. D2024-3099

1. The Parties

Complainant is Republican Party of Florida, United States of America (“United States”), represented by Shutts & Bowen LLP, United States.

Respondent is Manuel Asensio, United States.

2. The Domain Name and Registrar

The disputed domain name <stjohnsgop.org> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 29, 2024. On July 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 31, 2024, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on August 2, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on August 6, 2024.

The Center verified that the Complaint together with the amendment to the 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 August 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 27, 2024. Respondent did not file a Response and the Center notified Respondent’s default on August 29, 2024. Thereafter, Respondent sent multiple email communications to the Center on August 30, 2024, and September 3 to 6, 2024, including a late Response on September 5, 2024.

The Center appointed Georges Nahitchevansky as the sole panelist in this matter on September 6, 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.

Respondent sent further communications to the Center on September 7 and 16, 2024. On September 17, 2024, Complainant filed a request to reply to Respondent's various submissions. Respondent and Complainant also sent additional communications on September 17, 2024. On September 19, 2024, the Panel issued a Procedural Order accepting Respondent's submissions up through September 16, 2024, allowing Complainant an opportunity to file a limited reply and providing Respondent with an opportunity to file a limited response to Complainant's reply.

On September 20, 2024, Respondent filed a request to remove the single member panel in this proceeding, followed by multiple further communications concerning such.

On September 24, 2024, Complainant duly filed its reply. Respondent then sent further communications to the Center between September 24 and 27, 2024. On September 29, 2024, Respondent duly sent its response to Complainant's reply. On September 30, 2024, Respondent sent additional communications to the Center including a withdrawal of the request to remove the single member panel in this proceeding. Since then, Respondent has sent the Center further communications.

4. Factual Background

Complainant, Republican Party of Florida, is a political party in the State of Florida. Complainant holds a non-exclusive license to use the GOP name and mark in Florida from the Republican National Committee ("RNC"), the owner of the GOP mark and federal trademark registrations for such in the United States. Complainant also registered the GOP name and other names and symbols with the Division of Elections at the Florida Department of State pursuant to section 103.081, Florida Statutes.

Complainant owns and operates a website at "www.florida.gop" through which it advertises and promotes its political advocacy and fundraising endeavors.

Respondent is an individual in Florida. Respondent with another individual created and incorporated in Florida on June 6, 2023, a corporation by the name of St. John's Republican Executive Committee, Inc., which ostensibly is dedicated to reforming the Republican party's federal judiciary policy. On the same day, Respondent also registered the disputed domain name. At some point thereafter, Respondent posted a website at the disputed domain name that has featured such titles "We are St. Johns Republicans who are Protecting your Freedom from Judicial Tyranny." The website has featured Respondent's views on supposed judicial tyranny in the United States, the causes of such and ways to address the issue. The website has also promoted, at least in July 2024, Respondent's campaign for the position of State Committeeman for the Republican Party of Florida in St. Johns County, a campaign that began in May 2023.

Complainant, through its representative, sent Respondent a demand letter in September 2023 concerning Respondent's activities, the disputed domain name and associated website. Respondent replied to Complainant's demand letter and rejected the demands therein.

Complainant, through its representative, sent additional communications to Respondent on June 18 and 19, 2024, demanding that Respondent cease use of the disputed domain name and associated website. Respondent again rejected Complainant's demands but offered to sell the disputed domain name to Complainant for USD 125,000 and a charter to use either the name GOPJUDICIAL POLICY or REPUBLICAN JUDICIAL POLICY.

After Complainant filed the Complaint in this matter, Respondent made some small changes to the website at the disputed domain name and in particular added information concerning the website as being the official website of Respondent's organization. That use currently continues.

5. Parties' Contentions

A. Complainant

Complainant maintains that it has rights in the GOP mark by virtue of the permission it received from the RNC and through its registration of the GOP mark with the Division of Elections at the Florida Department of State pursuant to section 103.081, Florida Statutes. Complainant further maintains that as the authorized user of the GOP mark in Florida it has also established rights through its use of the GOP in Florida in connection with its activities and through the use of the GOP mark on its website at "www.florida.gop".

Complainant contends that the disputed domain name is identical or confusingly similar to the GOP mark as it incorporates the GOP mark and is identical to the St. Johns GOP executive committee established by Complainant. Complainant further contends that the addition of the geographically descriptive term St. John's does not distinguish the disputed domain name. Complainant also notes that as Respondent has no license from the RNC to use the GOP mark, Respondent's use of the disputed domain name is likely to cause confusion given that it is being used with highly related goods and services, namely, political advocacy and fundraising.

Complainant asserts that Respondent has nor rights or legitimate interests in the disputed domain name as Respondent (i) has no license from the RNC to use the GOP mark, (ii) has never been authorized by Complainant to use the GOP mark or to register the disputed domain name, and (iii) has used the disputed domain name to profit from the GOP mark for Respondent's own commercial gain. In that regard, Complainant notes that Respondent uses the disputed domain name to imitate Complainant's identity to attract and direct users to Respondent's website which hosts links that redirect users to an identical website of Respondent at "www.vote4asensio.com" soliciting users to donate money to "Take over the GOP in St. Johns."

Lastly, Complainant argues that Respondent has registered and is using the disputed domain name in bad faith as Respondent has never been authorized to use the GOP mark or to register the disputed domain name. Complainant further argues that as Respondent is not known as "St John's GOP" or "GOP", Respondent is using such to promote Respondent's political campaign and to mislead the relevant public into believing Respondent was selected as a nominee for St. John's County, Florida by Complainant.

B. Respondent

Respondent rejects Complainant's contentions. Respondent maintains that Complainant filed this proceeding against Respondent without notifying Respondent of such in order to obtain a default, to harm Respondent and his organization and to achieve a result "it knows it cannot achieve in US state courts."

Respondent advises that he is the co-founder and co-chairman of the St. John's Republican Presidential Executive Committee, which he thereafter simply refers to as St. John's GOP. Respondent maintains that "St. Johns GOP is a Republican Party of St. John's county organization operated by members of the Republican Party of Florida."

Respondent contents that his organization is "dedicated to the improving the GOP's presidential policies towards the administration of the US Judicial Conduct Act and the US Rules Enabling Act, and the regulations of organized federal judicial corruption by the US Judicial Conference."

Respondent asserts that he manages the negotiations over several political disputes between his organization and the Republican Party of Florida, which have been ongoing before this proceeding was initiated. Respondent acknowledges that during these negotiations he offered to sell the disputed domain name to Complainant for USD 125,000 and a club charter agreement as a way of resolving the dispute.

Respondent notes that after his organization responded to the two demand letters of Complainant, his organization filed a "Request for Hearing of Dispute to the Republican Party of Florida" raising various issues including the right to use and own the disputed domain name.

Lastly, Respondent challenges Complainant's alleged rights in GOP on the grounds that Complainant has "no trademark in the US or the State of Florida related to this dispute" and that the Republican party is known as the GOP (an acronym for the "Grand Old Party").

C. Complainant's Reply

Complainant reasserts its rights in the GOP mark by virtue of holding a non-exclusive license to use the GOP mark in the State of Florida and through its registration of the GOP mark with the Division of Elections at the Florida Department of State. Complainant further asserts that St. Johns GOP is the official county executive committee for St. Johns County and that it operates a website at "www.stjohns.gop".

Complainant reasserts that Respondent has no right under Florida Statutes to use any name, abbreviation, symbol of the Republican Party of Florida. Complainant argues that the disputed domain name is confusingly similar to the domain name used by the official county executive committee St. Johns GOP and that even if Respondent is a candidate for political office in an uncontested race, Respondent is not allowed to use the disputed domain name for his own political campaign.

Complainant contends that it is authorized to initiate this proceeding based on its above noted rights in GOP.

Complainant also contends that Respondent is impersonating the St. John's GOP and has used the disputed domain name to divert voters and potential campaign donors to Respondent's own website in order to promote Respondent's political campaign and to obtain campaign contributions not intended for Respondent. Complainant also notes that Respondent made changes to his website after the Complaint was filed and is holding the disputed domain name hostage for a payment of USD 125,000 and a club charter agreement from Complainant.

D. Respondent's Response

Respondent contends that this proceeding has been brought as "part of a strategy approved by Ron DeSantis (DeSantis), the Governor of Florida, to prevent the political disagreements and arguments between him and me . . . from becoming national news." Respondent contends that this case is meant to force Respondent to spend time and money and to abrogate Respondent's free speech and political expression, and in particular his criticism of the Republican party's federal judicial conduct policy. In that regard, Respondent provides a litany of comments regarding the mission of Respondent's organization and the possible animus of various Republicans to the views of Respondent.

Lastly, Respondent argues that even if "the RNC's GOP trademark was relevant any allegation of infringement would concern US freedom of speech law allowing St. John's GOP to criticize the RNC's GOP trademark."

6. Preliminary Consideration of Respondent's Untimely Response and the Parties further Submissions

In this matter, Respondent technically defaulted when it missed the due date to file a Response. Respondent ultimately filed his response and a number of other communications in which Respondent claimed that he did not receive notice of the proceeding until after his default and that Complainant had acted in bad faith in an attempt to obtain a default judgment by not serving Respondent.

Under Paragraph 10 of the UDRP Rules, a Panel has the authority to determine the admissibility, relevance, materiality and weight of the evidence, and also to conduct the proceedings with due expedition.

Here, the Complaint was properly served and communicated to Respondent by the Center in accordance with the Rules. The Complaint and exhibits were served by the Center by email and overnight courier to the addresses specified in the WhoIs records for the disputed domain name. Notably, Respondent used an address in New York City to register the disputed domain name. While Respondent's address might have

changed after registering the disputed domain name, it should be noted that Respondent incorporated his St. John's County Republican Executive Committee, Inc. corporation in Florida on the same day using an address in Florida. In any event, a registrant of a domain name is responsible for the information he or she provides when registering a domain name. If such is incorrect, that is the registrant's fault. Thus, Respondent does not have a basis for claiming that service was improper, when Respondent failed to update or provide correct information in the registrar's records for the disputed domain name. Additionally, there is no doubt that the Respondent has received and reacted to the relevant email communications.

That being said, the Panel notes that Complainant and Respondent have been at odds for several years and may have even been involved in prior litigation. Additionally, there is no doubt Complainant was well aware of Respondent's actual location and email address, given that Complainant's representative sent two demand letters to Respondent and engaged in further communications with Respondent. That Complainant never gave notice of this pending proceeding to Respondent, while technically not required under the Rules, could be seen as a being opportunistic given the longstanding feud between the parties. In any event, as the delay in submitting a response was brief and Complainant filed a request to file a reply, the Panel in the interest of fairness accepted Respondent's late submission through a Procedural Order and in that same order granted Complainant a right to reply and Respondent a right to respond to such. The Panel also made clear that it would not consider any further submissions.

Notwithstanding the Panel's Procedural Order, Respondent has continued to make unsolicited submissions. The Panel has disregarded these additional unsolicited submissions.

7. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was 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.

While Complainant is not the owner of the GOP mark or the United States trademark registrations for the GOP mark, which are both owned by the RNC, Complainant has provided evidence that it obtained a non-exclusive right to use the GOP mark in Florida from the RNC. Complainant has also provided sufficient evidence that in connection with the permission it has received from the RNC it has registered the GOP name and mark with the Division of Elections at the Florida Department of State and has made use of the GOP name and mark in Florida for many years.

Although it is not clear whether Complainant, as a non-exclusive licensee of the GOP mark has the authorization to initiate this UDRP (see [WIPO Overview 3.0](#) at section 1.4.1), based on Complainant's registration for the GOP mark with the Division of Elections at the Florida Department State, the rights granted to Complainant under the relevant Florida Statute, Complainant's longstanding use of the mark GOP in Florida and the fact that this dispute involves rival Republican factions in Florida, the Panel is prepared to find that Complainant has standing to file this proceeding.

Given the foregoing, the remaining question under the first element of the Policy is whether the disputed domain name (typically disregarding the generic Top-Level Domain such as “.org”) is identical or confusingly similar with Complainant’s marks. See *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#). The threshold for satisfying this first element is low and generally panels have found that fully incorporating the identical mark in a disputed domain name is sufficient to meet the threshold.

Here, the GOP mark is fully incorporated in the disputed domain name. The addition of the geographic location “St. John’s” (a county in Florida) does not distinguish the disputed domain name as GOP is clearly recognizable in the disputed domain name. As such, the Panel finds that the disputed domain name is confusingly similar to the GOP name mark for 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.

Here, the extent of the rights Complainant might enjoy in the GOP mark, as a non-exclusive licensee, are not altogether clear. While the Panel is prepared to accept that Complainant has an interest in the GOP mark in Florida and that Respondent has not obtained any license to use GOP mark from the RNC, there remains an open issue as to whether Complainant as a non-exclusive licensee of the GOP mark has sufficient rights and authority to take action against a member of Complainant’s own party using the GOP name and mark in Florida. Complainant relies on a Florida statute to argue that Respondent, a member of the Republican party, is precluded from using the GOP mark. The statute Complainant relies on, section 103.08, Florida Statutes precludes the use of the name, abbreviation or symbol of any party, or one registered with the Florida Department of State, in political advertising “in support of a candidate of any other party” without first obtaining written permission of the state executive committee of the party in question.

While it is beyond the scope of the UDRP for the Panel to interpret a Florida statute, and whether it applies to someone within the same political party, as opposed to an opposing party, it is clear from the evidence submitted that Complainant has received permission from the RNC to use the GOP mark in Florida and has registered the GOP name and mark in Florida with the relevant agency, which has been accepted, and that Respondent has no permission from the RNC and has not registered the GOP mark with the relevant agency. Thus, on its face, Complainant has made out a prima facie case that Respondent arguably lacks rights or legitimate interests in the disputed domain name that consists of the GOP name and mark.

Based on Respondent’s lack of permission from the RNC, Complainant’s registration of GOP with the relevant Florida agency, Complainant’s authorized use of GOP in Florida, and the above-cited Florida Statute, Complainant maintains that Respondent has no rights in the GOP mark and has used the disputed domain names to attract web users to Respondent’s website to promote Respondent’s campaign for the position of State Committeeman for the Republican Party of Florida in St. Johns County. Respondent’s website at the disputed domain name, though, appears to be much more than a website promoting Respondent’s political campaign. The website extensively expresses Respondent’s views and criticism regarding (i) the Republican party’s federal judicial policy and (ii) judicial corruption. Thus, the issue before

the Panel is whether Respondent, a proclaimed Republican, is making a fair use of the disputed domain name by using such in connection with a website that appears to be critical of the Republican party and some its activities and members in relation to federal judicial policy.

Under Paragraph 4(c)(iii) of the Policy, the use of a domain name for a fair use such as noncommercial free speech, can in principle support a respondent's claim to a legitimate interest under the Policy. In assessing cases of claimed free expression, the Panel is of the view that such assessment must embrace a holistic approach and focus on the totality of factors that includes the important initial question of whether a disputed domain name is being used to impersonate the Complainant, or put another way, whether the public would perceive the disputed domain name as being affiliated with or authorized by a complainant. Such additional factors would include (i) whether the criticism or commentary appears genuine and non-commercial, (ii) the possible pretextual nature of the respondent's website, (iii) the commercial or noncommercial aspects of the respondent's website, (iv) the nature of the domain name itself potentially including any additional terms or plays on words, (v) the use of disclaimers, and (vi) other factors that could inform whether a respondent is using the disputed domain for bona fide noncommercial criticism concerning a complainant or to take advantage of a complainant's mark in a bad faith or abusive way for the benefit of a respondent. See, e.g., *Tiffany Chhuom, PLLC d/b/a Ethtech, Tiffany Chhuom, Peter Chhuom v. J S*, WIPO Case No. [D2023-2930](#); *Everytown for Gun Safety Action Fund, Inc. v. Contact Privacy Inc. Customer 1249561463 / Steve Coffman*, WIPO Case No. [D2022-0473](#).

Looking at the disputed domain name, the Panel first notes that the disputed domain name consists of the GOP name and mark with the geographical designation "St. John's," a county in Florida. Complainant contends that the disputed domain name is confusingly similar to an official county executive committee in St. John's County and is meant to divert web users to Respondent's website. Complainant further contends that while Respondent is a member of the Republican Party of Florida he has not been granted any permission by Complainant to use the "St John's GOP official county executive committee designation."

On its face, there is merit to the notion that the disputed domain name might be perceived by the relevant public as being affiliated with Complainant and its official St. John's County executive committee, as Complainant contends. However, the issue here is that Complainant has claimed rights in GOP and not the geographic location of St. John's County. Complainant does not contest that another party could use the geographic term "St. John's." Consequently, the issue comes back to whether Respondent's use of the disputed domain name which includes GOP with a geographic location is a fair use.

Looking at Respondent's website and the correspondence provided by Respondent it appears that Respondent had been critical of certain policies of the Republican Party for some time. Respondent looks to have changed his voter registration to St. John's County in May 2023 and to have launched his campaign for the position of State Committeeman in St. John's County for the Republican Party at around that time. Indeed, Respondent communicated with several individuals within the St. John's Republican party in or around that time and raised his concerns and views regarding the Republican party, the federal government and institutional corruption. Respondent then co-founded in June 2023 his organization the St. John's County Republican Executive Committee, Inc. in furtherance of his claimed views and concerns. He also registered the disputed domain name at that time for a website to disseminate his views and to convince other Republicans in St. John's county and Florida to join his fight against claimed federal judicial corruption.

Respondent's website appears to be noncommercial in nature and consists primarily of criticism and text regarding Respondent's views. That Respondent included a link to his campaign website at "www.vote4asencio.com" in July 2024 does not render the website into a commercial vehicle, particularly as Respondent was running for office to better promote his views and to continue his self-proclaimed fight against federal judicial corruption. A review of archival pages available for the website at the disputed domain name that are publicly available at "www.archive.org" (the Wayback Machine) show that from the beginning Respondent's website has been a noncommercial vehicle through which Respondent has promoted his views and criticism of certain members of the Republican party and their policies.

In all, this is not a situation where a website has been pretextually created to justify a domain name registration or to take advantage of the claimed rights of a trademark owner, but rather a website that is of a

noncommercial nature to express Respondent's genuinely held views about the Republican party, federal judicial corruption and related issues. That Respondent has used the GOP name and mark in the disputed domain name appears to be as a reference to the Republican Party, which is also commonly known as the GOP. Indeed, GOP is often interchangeably used with the word Republican.

Although the Panel is somewhat troubled by the fact that Respondent offered to sell the disputed domain name to Complainant for USD 125,000 and a club charter agreement, that appears to have been in the context of negotiations to resolve the longstanding dispute between the parties. Certainly, there is no evidence that Respondent's intent had been to register and use the disputed domain name to extract a payment or other benefit from Complainant.

Taking all of the above noted factors into account the Panel concludes that insofar as Respondent is using the disputed domain name which is used with a website that is of a noncommercial nature to criticize the Republican Party's (GOP's) policies as they relate to alleged federal judicial corruption, Complainant's Complaint fails on the second element.

In reaching this conclusion, the Panel wants to make clear that it expresses no view at all as to whether Respondent's views as set out on Respondent's website have any merit, are correct, or are unfounded. Moreover, given the Parties' longstanding dispute and the fact that many issues raised by the Parties are beyond the scope of a UDRP, the Panel believes that this dispute belongs in another forum where discovery and cross-examination would be available to more fully assess the merits of the Parties respective contentions and where the Parties could raise all of their many claims and contentions.

C. Registered and Used in Bad Faith

In the light of the Panel's finding as to Respondent's legitimate interests, the Panel does not need to address the third element of registration and use in bad faith in respect of the disputed domain name.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Georges Nahitchevansky/

Georges Nahitchevansky

Sole Panelist

Date: October 8, 2024