

ADMINISTRATIVE PANEL DECISION

Experian Information Solutions, Inc. v. Drew Zelda
Case No. D2022-4982

1. The Parties

The Complainant is Experian Information Solutions, Inc., United States of America (“United States”), represented by Arnold & Porter Kaye Scholer LLP, United States.

The Respondent is Drew Zelda, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <experianfx.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 23, 2022. On December 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 27, 2022, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 28, 2022 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 January 2, 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 January 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 24, 2023.

The Center appointed Taras Kyslyy as the sole panelist in this matter on January 27, 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 an information services company and maintains operations throughout the United States and elsewhere since 1996. The Complainant owns numerous trademark registrations for the mark EXPERIAN, including for instance the United States registration No. 2,231,322, registered on March 16, 1999.

The Complainant operates websites at various domain names that contain its trademark, such as <experian.com>, which it uses to provide information about itself and its products, programs and services since 1996.

The disputed domain name was registered on May 10, 2022 and resolves to a website prominently featuring the Complainant's trademark, purporting to offer consumer financial and informational services, listing the Complainant's corporate address as its own address, and seeking consumers' personal identifiable information.

5. Parties' Contentions

A. Complainant

The disputed domain name is identical or confusingly similar to the Complainant's trademark. The disputed domain name (1) merely adds the letters "fx" after its incorporation of the Complainant's trademark in their entirety, (2) is confusingly similar to the Complainant's own domain name <experian.com>, and (3) is similar to the Complainant's trademark that it is likely to cause (and plainly is intended to cause) confusion among members of the public and others. The Respondent's addition of the letters "fx" after the Complainant's trademark in the disputed domain name does not negate the Respondent's intention to cause and opportunistically exploit inevitable user confusion.

The Respondent has no rights or legitimate interests in the disputed domain name. The Complainant is not affiliated in any way with the Respondent and has never authorized the Respondent to register or use the disputed domain name or the Complainant's trademark. The Respondent is not commonly known by the name "experian" or any variation thereof. The Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services. To the contrary the Respondent has intentionally registered the disputed domain name explicitly for the purpose of making an illegitimate or unfair use of the Complainant's trademarks by misleading and diverting Internet users who are seeking information about the Complainant and its services to the Respondent's own website. The disputed domain name, which incorporates the Complainant's trademark appears to the public to be an official Complainant's domain name, which the Respondent intends to further lend credibility to its services.

The disputed domain name was registered and is being used in bad faith. Given the international fame of the Complainant's trademark, it is inconceivable that the Respondent might have registered the disputed domain name incorporating the Complainant's trademark without knowing of it, and thus the Respondent registered the disputed domain name in order to take advantage of the Complainant's reputation and its trademarks, which is opportunistic bad faith. The Respondent had actual and constructive knowledge of the Complainant's trademark rights prior to the registration of the disputed domain name. The registration and use of the disputed domain name creates a form of initial interest confusion, which attracts Internet users to the disputed domain name based on the use of the term "experian" in the disputed domain name. The Respondent's efforts to hide the identity of the real party in interest through the use of "privacy" services confirm the bad faith registration.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

According to section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the "[WIPO Overview 3.0](#)") the applicable generic Top-Level Domain ("gTLD") in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. Thus, the Panel disregards gTLD ".com" for the purposes of the confusing similarity test.

According to section 1.7 of the [WIPO Overview 3.0](#) in cases where a domain name incorporates the entirety of a trademark the domain name will normally be considered identical or confusingly similar to that mark for purposes of UDRP standing. The Panel finds that in the present case the disputed domain name incorporates the entirety of the Complainant's trademark.

According to section 1.8 of the [WIPO Overview 3.0](#) where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The Panel finds that the addition of "fx" letters does not prevent a finding of confusing similarity of the disputed domain name to the Complainant's trademark.

Considering the above the Panel finds the disputed domain name is confusingly similar to the Complainant's trademark, therefore, the Complainant has established its case under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant has established *prima facie* that the Respondent has no rights or legitimate interests in the disputed domain name.

Furthermore, the Respondent provided no evidence that it holds rights or legitimate interests in the disputed domain name.

The available evidence do not suggest that the Respondent is commonly known by the disputed domain name, which could demonstrate its rights or legitimate interests (see, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones, TheDotCafe*, WIPO Case No. [D2008-0642](#)).

The Complainant did not license or otherwise agree for use of its prior registered trademarks by the Respondent, thus no actual or contemplated *bona fide* or legitimate use of the disputed domain name could be reasonably claimed (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#)).

The disputed domain name directs Internet users to a website with a logo similar to the Complainant's, uses the Complainant's corporate address as its own and is designed to make the Internet users believe that they actually access the Complainant's website. Past UDRP panels confirmed that such actions prove registrant has no rights or legitimate interests in a disputed domain name (see *Daniel C. Marino, Jr. v. Video Images Productions, et al.*, WIPO Case No. [D2000-0598](#), *Houghton Mifflin Co. v. Weatherman, Inc.*, WIPO Case No. [D2001-0211](#)).

Considering the above the Panel finds the Respondent does not have rights or legitimate interests in the disputed domain name. Therefore, the Complainant has established its case under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to section 3.2.2 of the [WIPO Overview 3.0](#) further factors including the nature of the domain name, the chosen top-level domain, any use of the domain name, or any respondent pattern, may obviate a respondent's claim not to have been aware of the complainant's mark. In the present case the Respondent shortly after registration of the disputed domain name incorporating the Complainant's trademark placed a website purporting to offer services similar to the Complainant's and using the Complainant's corporate address as its own. The Panel finds that the nature of the disputed domain name and its use confirms the Respondent knew or should have known of the Complainant's prior trademark rights, which confirms the bad faith.

According to paragraph 4(b)(iv) of the Policy the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith: by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location. In this case, the disputed domain name resolves to a website featuring the Complainant's trademark and falsely pretending to be official Complainant's website to intentionally attract Internet users by creating likelihood of confusion with the Complainant's trademark as to the source of the website and its products. The Panel finds the above confirms the disputed domain name was registered and used in bad faith.

The Respondent ignored its possibility to comment on the contrary and provide any good explanations to prove its good faith while registering and using the disputed domain name.

Considering the above the Panel finds the disputed domain name was registered and is being used in bad faith. Therefore, the Complainant has established its case under paragraph 4(a)(iii) 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 <experianfx.com> be transferred to the Complainant.

/Taras Kyslyy/

Taras Kyslyy

Sole Panelist

Date: February 6, 2023