

ADMINISTRATIVE PANEL DECISION

Freeman Holdings, LLC v. Anesh John
Case No. D2023-0637

1. The Parties

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

Respondent is Anesh John, United States.

2. The Domain Name and Registrar

The disputed domain name <freemanleadretrieval.com> (hereinafter the “Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 10, 2023. On February 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On February 13, 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 (Redacted for Privacy, Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complainant on February 15, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Respondent sent an informal communication to the Center on February 16, 2023 asking for a call “to chalk out a plan upon mutual agreement”. The Center informed Respondent by email on February 20, 2023 that a Complaint has been filed under the UDRP against Respondent, and that Respondent would have 20 days to respond to the Complaint after its formal notification to Respondent. Complainant filed an amended Complaint on February 20, 2023.

The Center verified that the Complaint together with the amendment to the Complaint and 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 Respondent of the Complaint, and the proceedings commenced on February 21, 2023. In accordance with the Rules, paragraph 5, the due

date for Response was March 13, 2023. Respondent did not submit any formal response. Accordingly, the Center notified the Parties with Commencement of Panel Appointment Process on March 15, 2023.

The Center appointed Lawrence K. Nodine as the sole panelist in this matter on March 23, 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

Complainant is a global event planning and management company. Since at least 1927, Complainant has used the FREEMAN mark in connection with its event planning and management services, which includes event planning for businesses; planning and conducting of trade fairs, exhibitions and presentations for economic or advertising purposes; and business meeting planning. Complainant owns multiple United States trademark registrations for the mark FREEMAN (Reg. Nos. 2,645,625; 5,518,973; 5,844,659) (registered November 5, 2002; July 17, 2018; August 27, 2019 respectively) (the "Mark"). Complainant also owns the domain name <freeman.com> (registered in 1997).

Respondent registered the Disputed Domain Name on January 12, 2022, long after Complainant registered the FREEMAN Mark. On the website associated with the Disputed Domain Name, Respondent advertises nearly identical services to those offered by Complainant under the Mark, including "pre-event solutions", "during-event solutions" and "post-event solutions."

5. Parties' Contentions

A. Complainant

Complainant contends that its U.S. trademark registrations establish its rights in the FREEMAN trademark; that the Disputed Domain Name is confusingly similar to its registered Mark; and that the addition of the phrase "lead retrievals" in the Disputed Domain Name does not prevent confusion. On the contrary, Complainant argues that the inclusion of this phrase "lead retrievals" increases the likelihood of confusion because "lead retrievals" are pieces of information that Complainant regularly gathers from trade show attendees, although it never has and never will sell such information to third parties.

Complainant alleges that Respondent has no rights or legitimate interests in the Disputed Domain Name as Complainant has not licensed Respondent to use the FREEMAN Mark. Rather, Complainant states that Respondent deliberately selected the Disputed Domain Name to attract consumers searching for Complainant's services and to falsely suggest an affiliation with Complainant. Accordingly, Complainant states that Respondent's use of the Disputed Domain Name does not qualify as fair use.

Complainant contends that Respondent registered and continues to use the Disputed Domain Name in bad faith. Given Respondent's use of the Disputed Domain Name, which incorporates the FREEMAN Mark, in connection with event planning and management services, Complainant contends that Respondent was aware of Complainant's rights in the Mark when Respondent registered the Disputed Domain Name. Complainant further argues that Respondent had constructive notice of Complainant's rights in the Mark by virtue of Complainant's U.S. trademark registrations for the same. Additionally, Complainant states that its FREEMAN Mark is well-known throughout the United States and therefore, Respondent must have been aware of Complainant's rights in the Mark.

Complainant maintains that Respondent is using the Disputed Domain Name in bad faith to advertise and sell Respondent's competitive services for commercial gain. Complainant also alleges that Respondent's use of the Disputed Domain Name damages the goodwill Complainant has established in the Mark. Specifically, Respondent is selling lead retrievals from trade show events, which includes the contact

information of attendees for purposes of post-trade show follow-up correspondence. While Complainant gathers such information, it never sells this information to third parties. Following the registration of the Disputed Domain Name, Complainant's customers have expressed their concerns that Complainant is selling their information. Therefore, Complainant argues that Respondent has caused real harm to Complainant's reputation and its relationship with its customers by holding itself out as associated with Complainant.

B. Respondent

Respondent did not reply to Complainant's contentions. The Center received an informal communication from Respondent, dated February 16, 2023, as referred in the Procedural History.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel finds that Complainant's trademark registrations establish that it has rights in the FREEMAN trademark. The Panel further finds that, because the Disputed Domain Name incorporates Complainant's Mark entirely, it is confusingly similar to Complainant's registered Mark. Respondent's addition of the phrase "lead retrieval" in the Disputed Domain Name does not prevent a finding of confusing similarity. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8; see also *N. M. Rothschild & Sons Limited v. WhoisGuard Protected, WhoisGuard, Inc. / Domain Accounts*, WIPO Case No. [D2020-1355](#) (finding <rothschildstockinvestment.com> confusingly similar to complainant's ROTHSCCHILD mark).

Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Complainant has presented a *prima facie* case for Respondent's lack of rights or legitimate interests in the Disputed Domain Name, which Respondent has not rebutted. First, Respondent is not licensed to use Complainant's Mark and there is no evidence that Respondent is commonly known by the Disputed Domain Name within the meaning of paragraph 4(c)(ii) of the Policy. The Disputed Domain Name incorporates the Mark with the phrase "lead retrieval", an expression that is related to Complainant's event planning and management services and therefore creates a direct association with Complainant. Accordingly, Respondent's use of the Disputed Domain Name does not constitute fair use. See [WIPO Overview 3.0](#), section 2.5.1. Additionally, Respondent chose to use the Disputed Domain Name to direct Internet users to its own website offering competitive services for purposes of monetary gain, which is not a *bona fide* offering of goods and services under the Policy. See *Phi Medical Aesthetics Ltd. v. Registration Private, Domains By Proxy, LLC / Jonathan Lee, Lita Group of Companies, Inc. (O/A LAB11)*, WIPO Case No. [D2020-0365](#).

Accordingly, the Panel finds that Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Respondent registered the Disputed Domain Name in bad faith. The evidence filed in this proceeding, which was not contested by Respondent, supports an inference that Respondent was aware of Complainant's rights in the Mark when it registered the Disputed Domain Name. Specifically, Respondent is offering directly competitive services in connection with Complainant's Mark, which indicates that Respondent was fully aware of Complainant and its rights when it registered the Disputed Domain Name. See *PB Web Media B.V. v. Redacted for Privacy, Domains By Proxy, LLC / George Larson*, WIPO Case No. [D2018-2141](#).

Additionally, Respondent's offering of competitive services is an indication that Respondent in bad faith has

used the Disputed Domain Name and Complainant's trademark, to attract business by creating a likelihood of confusion with Complainant's Mark as to the source, sponsorship, affiliation, or endorsement. See *Microsoft Corporation v. Serge Kovalev*, WIPO Case No. [D2005-0584](#). Furthermore, Complainant has stated that its customers have expressed concern that their information is being sold since Respondent began using the Disputed Domain Name. This evidence of actual confusion is a strong indicator that Respondent intended to attract, for commercial gain, users to its website by creating a likelihood of confusion with a Complainant's Mark. See [WIPO Overview 3.0](#) at section 3.1.4.

The Panel notes that Respondent has not submitted any formal response in this proceeding to show its motivations in the registration and use of the Disputed Domain Name, and it has not rebutted Complainant's case on registration and use of the Disputed Domain Name in bad faith.

Accordingly, the Panel finds Complainant has satisfied the requirements 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, <freemanleadretrieval.com> be transferred to the Complainant.

/Lawrence K. Nodine/

Lawrence K. Nodine

Sole Panelist

Date: April 6, 2023