

ADMINISTRATIVE PANEL DECISION

FXCM Global Services, LLC v. Lin Lin Zhou

Case No. D2023-1925

1. The Parties

The Complainant is FXCM Global Services, LLC, United States of America (“United States”), represented by SafeNames Ltd, United Kingdom.

The Respondent is Lin Lin Zhou, China.

2. The Domain Names and Registrar

The disputed domain names <fxcmen.com>, <fxcmhome.com>, <fxcmjp.com>, <fxcmus.com>, and <fxcm365.com> are registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 28, 2023. On April 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On May 1, 2023, 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 (Domains by Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 4, 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 May 4, 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 May 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 25, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 26, 2023.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on June 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 is a retail broker in the foreign exchange market. Founded in 1999, the Complainant is a provider of online foreign exchange market trading, CFD trading, and related services. The Complainant's tools include mobile trading, one-click order execution, and trading from real-time charts. The Complainant also offers educational courses on foreign exchange market trading.

The Complainant operates from its main website, "www.fxcm.com", and offers its services in a number of languages including, but not limited to, English, French, German, Spanish, Chinese, Arabic, and Vietnamese. The Complainant also provides a mobile app, which is available on marketplaces including Google Play and the Apple Store.

In addition to the domain name <fxcm.com>, which was registered on July 1, 1999, the Complainant holds domain names which incorporate the trademark FXCM, such as <fxcm.asia>, <fxcm.bs>, <fxcm.ba>, <fxcm.capital>, <fxcm.bi>, <fxcm.ceo>, <fxcm.blog>, <fxcm.co.dk>, <fxcm.bo>, <fxcm.co.uk>, and <fxcm.broker>.

The Complainant holds registrations for trademarks with the element FXCM in different jurisdictions, some of which are exhibited below:

Trademark	Jurisdiction	Registration No.	Registration Date
FXCM	United States	2620953	September 17, 2002
FXCM	European Union	003955523	November 3, 2005
FXCM	Australia	1093998	December 3, 2004
FXCM	Hong Kong, China	301708173	March 29, 2011
FXCM	China	12457692	March 28, 2016
		12458056	September 7, 2016

The disputed domain names were registered on:

<fxcmhome.com> - September 30, 2022;
 <fxcm365.com> - September 30, 2022;
 <fxcmen.com> - October 2, 2022;
 <fxcmjp.com> - October 21, 2022; and
 <fxcmus.com> - October 21, 2022.

5. Parties' Contentions

A. Complainant

According to the Complainant, the disputed domain names reproduce its FXCM trademark in its entirety with the addition of terms, numbers, or letters, namely, "home", "365", "en", "jp", and "us".

The Complainant informs that the Respondent has no rights or legitimate interests in the disputed domain names.

Additionally, the Complainant states that it has never licensed or authorized the Respondent to use its FXCM trademark and that the Respondent has not been known by a name corresponding to the disputed domain names.

Further, the Complainant mentions that the Respondent is making neither *bona fide* commercial use nor legitimate noncommercial or fair use of the disputed domain names.

The Complainant also argues that the disputed domain names were registered and are being used in bad faith as it reproduces the Complainant's trademark, reason why Internet users will be under the impression that there is a relationship between the disputed domain names and the Complainant.

Moreover, the Complainant states that the disputed domain names <fxcmen.com>, <fxcmhome.com>, <fxcmjp.com>, and <fxcmus.com> are being used to carry out fraudulent activity such as the distribution of malware or malicious software by compelling Internet users to download “MetaTrader5”. The disputed domain name <fxcm365.com> resolves to a “ChatGPT” webpage. These activities would disrupt the Complainant’s business operations as Internet users seeking the Complainant’s offerings may be compelled to download malware, or software not authorized by the Complainant.

The Respondent used a privacy service to hide its identity.

Finally, the Complainant requests the transfer of the disputed domain names.

B. Respondent

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

6. Discussion and Findings

As per paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) the disputed domain name is 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The evidence presented demonstrates that the Complainant is the owner of registrations for the trademark FXCM in different jurisdictions, as well as of several domain names comprising the element “fxcm”.

The Complainant’s trademarks predate the registration of the disputed domain names.

The disputed domain names comprise the Complainant’s trademark FXCM in its entirety. As numerous prior UDRP panels have recognized, the incorporation of a trademark in its entirety or a dominant feature of a trademark is sufficient to establish that a domain name is identical or confusingly similar to the Complainant’s mark.

The addition of the elements “home”, “365”, “en”, “jp”, and “us” does not prevent a finding of confusing similarity between the disputed domain names and the Complainant’s trademark, since the registered trademark FXCM is totally recognizable within the disputed domain names.

It is the general view among UDRP panels that the addition of merely dictionary, descriptive or geographical words to a trademark in a domain name does not prevent a finding of confusing similarity under the first element of the UDRP. See [WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition \(“WIPO Overview 3.0”\)](#), section 1.8.

The Panel finds that paragraph 4(a)(i) of the Policy has been proved by the Complainant, *i.e.*, the disputed domain names are confusingly similar to the Complainant’s trademark.

B. Rights or Legitimate Interests

The Respondent has not submitted any response to the Complaint.

There is no evidence that the Respondent has any authorization to use the Complainant’s trademark or to register domain names containing the Complainant’s trademark.

There is no evidence that the Respondent is commonly known by the disputed domain names.

There is no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain names or that before any notice of the dispute the Respondent has made use of, or demonstrable preparations to use the disputed domain names or a name corresponding to the disputed domain names in connection with a *bona fide* offering of goods or services.

The Panel finds that the use of the disputed domain names, which incorporates the Complainant's trademark with "home", "365", "en", "jp", and "us", does not correspond to a *bona fide* use of the disputed domain names under the Policy. The additional elements "en," "jp" and "us" can be considered geographical words related to languages or countries. "En" may refer to English, "jp" to Japan, and "us" to the United States. The elements "home" and "365" may refer to "home page" and to the number of days of the year, respectively, suggesting that the relevant websites resolve to the official homepage of Complainant and a website that operates.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(ii) of the Policy has been satisfied, *i.e.*, the Respondent has no rights or legitimate interests in the disputed domain names.

C. Registered and Used in Bad Faith

The trademark FXCM is used and has been registered by the Complainant in several jurisdictions. Also, the Complainant registered and is using the domain name <fxcm.com> which resolves to its main website. These registrations predate the registration date of the disputed domain names.

The Respondent has no rights or legitimate interests in the disputed domain names.

This Panel finds that the disputed domain names reproduce the trademark FXCM with addition of the descriptive or geographical terms "home", "365", "en", "jp", and "us" with an apparent intention to confuse and/or deceive consumers.

It is not conceivable that the Respondent would not have been aware of the Complainant's trademark rights at the time of the registration of the disputed domain names.

It is clear to the Panel that the Respondent's intention with the addition of the aforementioned terms to the Complainant's trademark was to create a likelihood of confusion among Internet users for any some commercial gain.

Although the disputed domain names are currently inactive, the Panel finds that the failure of the Respondent to submit a Response, the fact that the Respondent used a privacy service to conceal his identity, the fact that the Complainant's trademark FXCM is widely known, and the implausibility that the disputed domain names may be put in good faith use are indication of the Respondent's bad faith. See section 3.3 of the [WIPO Overview 3.0](#).

Besides, there is evidence in the files that the disputed domain names were used for malware distribution or direct Internet users to an unrelated third party website, which is also evidence of the Respondent's bad faith.

For the above reasons, the condition of paragraph 4(a)(iii) of the Policy has been satisfied, *i.e.*, the disputed domain names have been registered and are being used in bad faith.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(a) of the Policy and 15 of the Rules, the Panel orders that the disputed domain names <fxcm.com>, <fxcmhome.com>, <fxcmjp.com>, <fxcmus.com>, and <fxcm365.com> be transferred to the Complainant.

/Mario Soerensen Garcia/

Mario Soerensen Garcia

Sole Panelist

Date: June 19, 2023