

ADMINISTRATIVE PANEL DECISION

MaxMind Inc. v. Dejan Petkovic

Case No. D2023-2261

1. The Parties

The Complainant is MaxMind Inc., United States of America (“United States”), represented by Frankfurt Kurnit Klein & Selz, PC, United States of America.

The Respondent is Dejan Petkovic, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <geoipllookup.net> 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 May 24, 2023. On May 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 26, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 30, 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 amendment to the Complaint on June 1, 2023.

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 June 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 22, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 23, 2023.

The Center appointed John Swinson as the sole panelist in this matter on June 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 a Delaware corporation that was founded in 2002. The Complainant has offices in Massachusetts. The Complainant provides Internet Protocol (“IP”) intelligence and online fraud detection tools. One of the Complainant’s offerings is known as GEOIP. The Complainant, under the GEOIP service, provides “databases featuring the location, internet service provider and organization associated with specific internet addresses”.

In order to utilize the Complainant’s GEOIP services and use the Complainant’s GEOIP data, customers must first create an account with the Complainant and, after a free trial, must pay subscription fees for such services.

The Complainant first used GEOIP as a trademark in 2002.

The Complainant owns a United States Trademark Registration No. 2,897,141 for GEOIP that was filed on March 25, 2003 and registered on October 26, 2004.

The disputed domain name was registered on June 2, 2015.

The Respondent did not file a Response, so little information is known about the Respondent. According to the Registrar’s records, the Respondent has an address in Saint Petersburg in the Russian Federation.

At the time of the filing of the Complaint and at the time of this decision, the disputed domain name resolved to a website that provided an IP address geo-lookup service. The heading of this website is “geoiplookup.net” with “.net” in a different colour and below the term “geoiplookup”. Text on this website states: “Welcome to Geo IP Lookup, a simple yet comprehensive database of all IP addresses in the world. We started this website as an online tool anyone can use to get accurate IP address information. With us, you can find your IP address as well as input IP addresses to find details about them. Our authentic and accurate results make us the ideal website for IP information.”

According to the Complainant, the website at the disputed domain name provides IP lookup results that are taken from the Complainant’s proprietary GEOIP data, without a proper license from the Complainant. The Complainant provided its rationale for this belief discussed in further detail below.

In July 2022, the parties engaged in email correspondence that did not resolve the dispute.

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 name.

Notably, the Complainant contends that the bad faith of the Respondent is evidenced by its (i) use of the Complainant’s nearly identical trademark in the disputed domain name, (ii) prominent use of the Complainant’s trademark on the top front portion of the Respondent’s website homepage, (iii) use of the disputed domain name for an IP intelligence service, which is identical to the services for which the Complainant has registered and used the Complainant’s trademark, and (iv) use of the Complainant’s proprietary GEOIP data without a license.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (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 are being used in bad faith.

The *onus* of proving these elements is on the Complainant.

Paragraph 15(a) of the Rules directs the Panel to decide the Complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.

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.

Based on the available record, the Panel finds 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 Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms, here "lookup", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, 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.

While 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 often impossible 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. 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 record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. 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 name.

The Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2. As discussed below, for the purposes of the Policy, the Respondent's IP lookup service is not a *bona fide* offering of services.
- the Respondent (as an individual, business, or other organization) has not been commonly known by the disputed domain name. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.
- the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.
- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the disputed domain name.

Panels have held that the use of a domain name for illegal activity (*e.g.*, the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. In the present case, the Complainant asserts that the Respondent is using the Complainant's data without permission from the Complainant and in breach of the Complainant's license terms.

The Complainant states that the Complainant has intentionally planted specific incorrect data in the Complainant's database which was copied and used by the Respondent (which the Complainant knows due to queries of the Respondent's site reproducing the planted incorrect data), thus demonstrating access and use of the Complainant's data by the Respondent. The Complainant wrote to the Respondent questioning the Respondent's use of the Complainant's data, but the Respondent did not respond to or answer this question. Moreover, the Respondent did not respond to the Complaint which makes this allegation.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

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.

Generally speaking, a finding that a domain name has been registered and is being used in bad faith requires an inference to be drawn that the respondent in question has registered and is using the disputed domain name to take advantage of its significance as a trademark owned by the complainant. *Fifth Street Capital LLC v. Fluder (aka Pierre Olivier Fluder)*, WIPO Case No. [D2014-1747](#). That is the situation here. The website at the disputed domain name provides a service that similar to the Complainant's service. The Complainant used its GEOIP trademark for 15 years before the Respondent registered the disputed domain name. In copying the Complainant's data, as discussed above, the Respondent no doubt is aware of the Complainant.

The Panel considers that the record of this case reflects that:

The Respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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 the Respondent's website or location or of a product or service on the Respondent's website or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, for the reasons discussed above in respect of the second element of the Policy, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

Based on the available record, the Panel finds the third element of the Policy has been established.

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 <geoplookup.net> be transferred to the Complainant.

/John Swinson/

John Swinson

Sole Panelist

Date: July 11, 2023