

## **ADMINISTRATIVE PANEL DECISION**

Open Society Institute v. Robert  
Case No. D2023-2879

### **1. The Parties**

The Complainant is Open Society Institute, United States of America, represented by Morrison & Foerster, LLP, United States of America.

The Respondent is Robert, Bulgaria.

### **2. The Domain Name and Registrar**

The disputed domain name <opensocietyfoundations.world> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 6, 2023. On July 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 7, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 25, 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 July 26, 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 August 8, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 28, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 30, 2023.

The Center appointed Daniel Peña as the sole panelist in this matter on September 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 owns trademark registrations for its OPEN SOCIETY trademarks in the United States, as follows:

- OPEN SOCIETY FOUNDATIONS Registration No. 4,248,358 Filing Date: May 4, 2011 Registration Date: November 27, 2012 International Classes: 9, 16, 36, 38, 41
- OPEN SOCIETY POLICY CENTER Registration No. 3,769,307 Filing Date: April 21, 2005 Registration Date: March 30, 2011 International Classes: 35, 36
- OPEN SOCIETY INSTITUTE Registration No. 2,412,029 Filing Date: June 21, 1999 Registration Date: December 12, 2001 International Classes: 16, 36, 41, 42.

The disputed domain name was registered on May 15, 2023 and resolves to a parked page with pay-per-click links.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant is a philanthropic organization that works to build vibrant and tolerant societies whose governments are accountable and open to the participation of all people.

The Complainant funds a range of programs around the world, from public health to education to business development. It conducts a number of philanthropic services, promotes awareness and fosters the development of a civil society, and provides a database for the exchange of related information, among other services, under its OPEN SOCIETY marks, including OPEN SOCIETY FOUNDATIONS.

The disputed domain name is identical to the OPEN SOCIETY FOUNDATIONS trademark and the domain name associated with that trademark as it incorporates the Complainant's trademark in its entirety with no additional matter. Additionally, the disputed domain name utilizes the generic Top-Level Domain ("gTLD") ".world".

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

The Respondent has not made use of the disputed domain name in connection with a *bona fide* offering of goods or services.

The Respondent is not commonly known by the disputed domain name.

The disputed domain name is parked, a use which does not give rise to legitimate rights or interests in a domain name.

The Complainant is well known by the public. Bad faith can be found where the Respondent "knew or should have known" of the Complainant's trademark rights and, nevertheless registered domain name in which it had no rights or legitimate interests.

The disputed domain name resolves to an inactive website.

The Complainant argues that the disputed domain name was registered and is being used in bad faith.

## **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 listed in paragraph 4(a) of the Policy have been satisfied: (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. Considering these requirements, the Panel rules as follows:

### **A. Identical or Confusingly Similar**

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The Complainant has provided evidence of its rights in the OPEN SOCIETY FOUNDATIONS trademarks on the basis of its multiple trademark registrations in United States of America. A trademark registration provides a clear indication that the rights in the trademark belong to the Complainant (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1). It has also been established by prior UDRP panels that incorporating a trademark in its entirety into a domain name can be sufficient to establish that the domain name is confusingly similar to a trademark. Such finding is confirmed, for example, within section 1.7 of [WIPO Overview 3.0](#).

The Respondent's incorporation of the Complainant's mark in full in the disputed domain name is sufficient to establish that the disputed domain name is identical to the Complainant's marks. Furthermore, the addition of the gTLD ".world" does not prevent a finding of confusing similarity either.

The Panel is satisfied that the disputed domain name is identical or confusingly similar to the Complainant's mark and the Complainant has satisfied the requirement of paragraph 4(a)(i) of the Policy.

### **B. Rights or Legitimate Interests**

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant bears the burden of proof in establishing this requirement. In view of the difficulties inherent in proving a negative and because the relevant information is mainly in the possession of the Respondent, it is enough for the Complainant to establish a *prima facie* case which, if not rebutted by sufficient evidence from the Respondent, will lead to this ground being set forth. Refraining from submitting any Response, the Respondent has brought to the Panel's attention no circumstances from which the Panel could infer that the Respondent has rights to or legitimate interests in the disputed domain name.

The Panel will now examine the Complainant's arguments regarding the absence of rights or legitimate interests of the Respondent in connection with the disputed domain name. The Complainant claims that the Respondent has no connection or affiliation with the Complainant and has not received any license or consent, express or implied, to use the Complainant's trademarks in a domain name or in any other manner. Furthermore, the disputed domain name directs to a parked page with PPC Links.

The Panel also finds that the nature of the disputed domain name carries a risk of implied affiliation with the Complainant's trademarks (see [WIPO Overview 3.0](#), section 2.5.1). The Respondent did not submit a Response or attempt to demonstrate any rights or legitimate interests in the disputed domain name, and the Panel draws adverse inferences from this failure, where appropriate, in accordance with the Rules, paragraph 14(b). The Panel finds the Respondent has no rights or legitimate interests in respect of the disputed domain name and that paragraph 4(a)(ii) of the Policy is satisfied.

### **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy stipulates that any of the following circumstances, *inter alia*, shall be considered as evidence of the registration and use of a domain name in bad faith: (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or (ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or (iii) circumstances indicating that the respondent registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt 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 its website or location.

With regard to the bad faith at the time of registration, the Panel notes that "opensocietyfoundations" is not a common or descriptive term, but a renowned trademark in and to which the Complainant has demonstrated it has rights. The disputed domain name reproduces, without any authorization or approval, the Complainant's registered trademarks. Moreover, the disputed domain name is inherently misleading as it reproduces the Complainant's OPEN SOCIETY FOUNDATIONS trademark. In addition, owing to the substantial presence established worldwide, it is at the least very unlikely that the Respondent was not aware of the existence of the Complainant's trademarks when registering a domain name that entirely reproduces the Complainant's trademark. Therefore, it is more likely than not that the Respondent, when registering the disputed domain name, had knowledge of the Complainant's earlier rights to the OPEN SOCIETY FOUNDATIONS trademark. The bad faith registration and use of the disputed domain name is also affirmed by the fact that the Respondent has not denied, or even responded to, the assertions of bad faith made by the Complainant in this proceeding.

Furthermore, the Panel finds that the use of the disputed domain name resolving to a parked page with PPC links in the circumstances of the case does not prevent a finding of bad faith registration and use in accordance with paragraph 4(b)(iv) of the Policy. Accordingly, the Panel finds, based on the evidence presented, that the Respondent registered and is using the disputed domain name in bad faith.

Therefore, the Complainant has satisfied 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 <opensocietyfoundations.world> be transferred to the Complainant.

*/Daniel Peña/*

**Daniel Peña**

Sole Panelist

Date: September 16, 2023