

## ADMINISTRATIVE PANEL DECISION

Ford Motor Company, Ford Motor Company of Canada Limited v. mussy steph, skjksaklkla, Nick Bursten, Times llc and jdjdkd dkjdkd  
Case No. D2023-4904

### 1. The Parties

The Complainant is Ford Motor Company, United States of America (“United States”), and Ford Motor Company of Canada Limited, Canada, represented by Kucala Law LLC, United States.

The Respondent is mussy steph, Seychelles, skjksaklkla, Seychelles, Nick Bursten, Times llc, United States, and jdjdkd dkjdkd, United Kingdom.

### 2. The Domain Names and Registrar

The disputed domain names, <fordaccounts.com>, <fordapplicants.com>, <fordapplications.com>, <fordclient.com>, <fordclients.com>, <fordclientslogin.com>, <fordmoneyaccounts.com>, <fordmoneyapplicationform.com>, <fordmoneyapplicants.com>, <fordmoneyapplication.com>, <fordmoneyapplicationform.com>, <fordmoneyapplications.com>, <fordmoneyapply.com>, <fordmoneyclient.com>, <fordmoneyclients.com>, <fordmoneylogin.com>, <fordmoneyonline.com>, <fordmoneysavers.com>, <fordmoneysaving.com>, <fordmoneysavings.com>, <fordmoneyuk.com>, <fordonlineportal.com>, <fordportalonline.com>, and <fordsavers.com>, are registered with Nicenic International Group Co., Limited (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 26, 2023. On November 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On November 28, 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 (Unknown Registrant, Mussy Steph) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 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 amended Complaint on December 5, 2023, requesting the addition of two new disputed domain names to the proceedings, namely <fordsavers.com> and <fordapplicants.com>.

On December 8, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the two newly added disputed domain names. On December 8, 2023, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the two newly added disputed domain names which differed from the named Respondent (“Mussy Steph”). The Center sent an email communication to the Complainant on December 11, 2023, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or, alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amended Complaint, which included the submissions requested, on December 15, 2023.

The Center verified that the Complaint, together with the amended Complaints, 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 December 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 11, 2024.

The Center appointed Antony Gold as the sole panelist in this matter on January 17, 2024. The Panel finds that it was properly constituted. The Panel submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7, and proceeded with preparation of the Decision.

Whilst drafting the decision it came to the Panel’s attention that the registrant information for the disputed domain names <fordclient.com>, <fordaccounts.com>, and <fordmoneyaccounts.com> (the “three disputed domain names”) had been changed according to the public Whois database and did not match the details provided in the Registrar’s verification response of November 28, 2023. On January 26, 2024, the Center transmitted by email to the Registrar, a request to clarify the change of registrant information for the three disputed domain names. On January 28, 2024, the Registrar disclosed that it had made a mistake when initially providing the registrant information to the Center and disclosed the corrected registrant information for the three disputed domain names, which differed from the (then) named Respondents for these proceedings.

On January 30, 2024 the Panel issued Administrative Panel Procedural Order No. 1, which invited the Complainant to amend its Complaint by February 4, 2024, adding the Registrar-disclosed registrants as formal Respondents and providing relevant arguments or evidence demonstrating that all four named Respondents (“mussy steph”, “skjkssaklkl”, “Nick Bursten, Times llc”, and “jdjdkd dkjdkd”) are, in fact, the same entity and/or that all disputed domain names are under common control. Alternatively, the Complainant was invited to submit a request to remove the three disputed domain names from the current proceeding and file a separate complaint in relation to them.

On February 4, 2024, the Complainant filed an amended Complaint which incorporated arguments or evidence seeking to demonstrate that all four named Respondents are, in fact, the same entity and/or that all disputed domain names are under common control. On February 6, 2024, the Panel issued Administrative Panel Procedural Order No. 2, which instructed the Center to forward the Complainant’s filings to all the identified registrants, and requested the identified registrants to confirm, on or before February 11, 2024, whether they intended to participate in the proceedings and wished to submit a Response in relation to these proceedings and/or whether they had any comment on the Complainant’s consolidation request.

No response having been received by any of the identified Respondents by February 11, 2023, the Panel has proceeded with its decision accordingly.

#### **4. Procedural issue – Addition of two disputed domain names and Complaint filed against multiple Respondents**

The first-named Respondent is the underlying registrant of all the disputed domain names save for (1) <fordsavers.com> and <fordapplicants.com>, in respect of which the second-named Respondent is the registrant, (2) <fordclient.com>, in respect of which the third-named Respondent is the registrant, and (3) <fordaccounts.com>, and <fordmoneyaccounts.com>, in respect of which the fourth-named Respondent is the registrant.

The Complainant seeks to add <fordsavers.com> and <fordapplicants.com> to the Complaint at a point after the initial Complaint had been filed but prior to its service on the Respondent. The Complainant says, correctly, that it is able to add additional domain names to its Complaint at this stage of proceedings; see the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.12.1.

The Complainant also requests the consolidation of the Complaint against the four disputed domain name registrants pursuant to paragraph 10(e) of the Rules. The Complainant makes essentially the same point in relation to the disputed domain names registered by all four Respondents namely that all the disputed domain names; (1) were registered using the same Registrar; (2) were registered within weeks of each other; (3) each begin with the term "ford" and combine it with other generic terms apt to be associated with the Complainant. For these reasons, the Complainant alleges that all the disputed domain name registrants are either the same entity or are under common control.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain names, provided that the domain names are registered by the same domain name holder. Whilst neither the Policy nor the Rules expressly provides for the consolidation of claims against multiple respondents into a single administrative proceeding, the principles applied by panels considering requests for consolidation are set out at section 4.11.2. of the [WIPO Overview 3.0](#) which explains that: "Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario." See also *Speedo Holdings B.V. v. Programmer, Miss Kathy Beckerson, John Smitt, Matthew Simmons*, WIPO Case No. [D2010-0281](#).

The Panel accepts that, for the reasons given by the Complainant, the evidence, in combination, points to all the disputed domain names being under common control. The Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party. The Panel notes also that none of the Respondents has challenged the Complainant's assertions in this respect.

In these circumstances, it is procedurally efficient, as well as fair and equitable to all parties, for the Complainant's case in respect of all the disputed domain names to be dealt by means of a single Complaint. The Panel accordingly grants the Complainant's request for consolidation and the Respondents are referred to in the remainder of this decision as "the Respondent".

#### **5. Factual Background**

The Complainant is a global automotive manufacturer, established in 1903. It manufactures and distributes automobiles across six continents and has over 180,000 employees and more than 9,000 dealerships worldwide. The Complainant also offers a variety of retail, leasing and wholesale automotive financial products and services to its dealers and their customers. Its revenues in 2021 were in excess of USD 136.3 billion.

The Complainant's principal brand is FORD and it owns numerous trade marks in many jurisdictions to protect this trading style. These include, by way of example only, United States Service Mark, registration number 2,884,529, in class 36, registered on September 14, 2004.

The disputed domain names were registered on various dates between October 4, 2023, and November 28, 2023. The majority of the disputed domain names have never resolved to active websites. Ten of the disputed domain names have previously resolved to websites which purported to be operated by, or with the authority of, the Complainant in that their form and content closely replicated that of some of the Complainant's own websites. For example, the Respondent's website at <fordmoneysavings.com> purported to offer savings accounts to consumers in terms which were identical to those of the Complainant's website at <fordmoney.co.uk>.

Of the ten disputed domain names which had directed to active websites, six are now inactive. When attempts are made to access the websites of the remaining four disputed domain names, Deceptive Website Warnings are generated in the Internet user's browser. At least one of the other disputed domain names, namely <fordmoneyclient.com>, has been used to send phishing emails in connection with the solicitation of funds for a fixed rate saver account and three other disputed domain names have had their MX records activated which would enable them to be used for the same purpose.

## **6. 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 names. Notably, the Complainant contends that;

- each of the disputed domain names is confusingly similar to a trade mark in which the Complainant has rights. The first portion of each of the disputed domain names comprises the Complainant's FORD mark, which is the dominant element in each of them, and the second portion comprises generic terms which do not serve to prevent the disputed domain names from being found confusingly similar to the Complainant's mark;
- the Respondent has no rights or legitimate interests in respect of the disputed domain names. The Respondent is not affiliated or connected with the Complainant in any way nor has it been authorized or licensed to use its FORD trade marks in the disputed domain names. The Respondent is not using any of the disputed domain names in connection with a bona fide offering of goods or services. Instead, the disputed domain names were registered to impersonate the Complainant in an effort to mislead and likely defraud consumers. In particular, the Respondent has operated active websites associated with some of the disputed domain names and sent emails to individuals pretending to be the Complainant and soliciting personally identifiable information and payment from them. There is no evidence that the Respondent has been commonly known by any of the disputed domain names;
- the disputed domain names were registered and are being used in bad faith. The Respondent knew, or should have known, of the Complainant's rights in its FORD marks prior to registration of the disputed domain names. The disputed domain names were registered and intentionally used in connection with a fraudulent scheme, which is strong evidence of bad faith. In particular, the Respondent has operated websites associated with some of the disputed domain names which have copied the branding, look and feel of the Complainant's genuine websites. The Complainant has received multiple enquiries and complaints from individuals contacted by the Respondent using means related to the disputed domain names which suggests that they are being used for fraud. Additionally, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its websites by creating a likelihood of confusion with the Complainant's FORD mark as to the source, sponsorship, affiliation or endorsement of its websites.

### **B. Respondent**

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

## 7. Discussion and Findings

Dealing, first, with the Respondent's failure to file a response to the Complaint, paragraph 14(b) of the Rules provides that if a party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under these Rules, the Panel shall be entitled to draw such inferences from this omission, as it considers appropriate.

Paragraph 4(a) of the Policy provides that the Complainant proves each of the following three elements in order to succeed in its Complaint:

- (i) the disputed domain names are identical or confusingly similar to a trade mark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

### 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 trade mark and the disputed domain names; see the [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of its FORD mark for the purposes of the Policy; see the [WIPO Overview 3.0](#), section 1.2.1. As a technical requirement of registration, the generic Top-Level Domain ("gTLD"), that is ".com" in the case of each of the disputed domain names, is usually disregarded when assessing confusing similarity. The Complainant's FORD mark is reproduced in its entirety within each of the disputed domain names and is clearly recognizable within it. In these circumstances the addition of terms such as "moneysavings", "moneyapplicants" and "clientslogin", among others, each of which is apt to be associated with aspects of the Complainant's business, does not prevent a finding of confusing similarity between each of the disputed domain names and the Complainant's mark for the purposes of the Policy; see the [WIPO Overview 3.0](#), section 1.8.

For the above reasons, based on the available record, the Panel finds that 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 by which the Respondent may demonstrate rights or legitimate interests in a disputed domain name. Whilst 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 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; see the [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 names. 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 names such as those enumerated in the Policy or otherwise. In particular, 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, any of the disputed domain names or a name corresponding to any of the disputed domain names in connection with a bona fide offering of goods or services; see paragraph 4(c)(i) of the Policy, and the [WIPO Overview 3.0](#), section 2.2; Previous UDRP panels have held that the use of a domain name for illegal activity, including phishing, distributing malware, impersonation/passing off, or other types of fraud, which would include the Respondent's use of a number of the disputed domain names as described above, can never confer rights or legitimate interests on a respondent; see section 2.13.1 of the [WIPO Overview 3.0](#). The Panel also takes into account the fact that the Respondent has chosen not to challenge the Complainant's assertion that it has been using at least some of the disputed domain names for dishonest purposes. In respect of those disputed domain names which have never been used or are not used at present, non-use of a disputed domain name, self-evidently, does not comprise use in connection with a bona fide offering of goods and services;
- there is no evidence in the record that the Respondent has been commonly known by any of the disputed domain names. In this respect, see paragraph 4(c)(ii) of the Policy and the [WIPO Overview 3.0](#), section 2.3;
- the Respondent is not making a legitimate noncommercial or fair use of the disputed domain names, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue; see paragraph 4(c)(iii) of the Policy and the [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 names.

For the above reasons, based on the available record, the Panel finds the second element of the Policy has been established.

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

The record shows that, within a few weeks after the Respondent's registration of the disputed domain names, ten of them resolved to websites which masqueraded as those of the Complainant and another disputed domain name was being used for the purpose of sending phishing emails. This establishes both an awareness by the Respondent of the Complainant's FORD mark as at the date of registration of the disputed domain names and an intention on its part to take unfair advantage of it. The Respondent's registration of the disputed domain names is accordingly in bad faith.

Paragraph 4(b) of the Policy sets out, without limitation, circumstances which, if found by a panel to be present, shall be evidence of the registration and use of a domain name in bad faith. The circumstance set out in paragraph 4(b)(iv) of the Policy is if a respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website. The use to which the Respondent has put those of the disputed domain names which previously resolved to active websites falls within this circumstance in that the content of its websites will have misled Internet users into believing that they were operated by the Complainant and thereby be lured into disclosing personal data or providing funds to the Respondent, seemingly for investment. Consumers will be further misled because of the confusing similarity between each of the disputed domain names and the Complainant's FORD mark. See section 3.1.4 of the [WIPO Overview 3.0](#): "[G]iven that the use of a domain name for per se illegitimate activity such as the sale of counterfeit goods or phishing can never confer rights or legitimate interests on a respondent, such behavior is manifestly considered evidence of bad faith". See also by way of example, *OANDA Corporation v. Privacy Service Provided by Withheld for Privacy ehf / RICHARD WILLIAMS*, WIPO Case No. [DCC2022-0006](#).

Moreover, the use of at least one of the disputed domain names in order to seek to deceive Internet users through the use of scamming emails as described above is manifestly in bad faith; see section 3.4 of the [WIPO Overview 3.0](#), and *Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco v. WhoisGuard Protected / WhoisGuard, Inc. / Json Werl*, WIPO Case No. [D2021-0901](#). Additionally, the fact that attempts to access websites at four of the disputed domain names now generate Deceptive Website Warnings in Internet browsers reinforces the view that the Respondent has used, or is using, the disputed domain names in order to engage in dishonest activity and affirms bad faith on the part of the Respondent; see, for example, *SODEXO v. Peter C Foy, "Sodexo"*, WIPO Case No. [D2022-3643](#).

So far as the disputed domain names which have never resolved to active websites, or no longer do so, are concerned, panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding; see the [WIPO Overview 3.0](#), section 3.3 and by way of example, *Johnson & Johnson v. Daniel Wistbacka*, WIPO Case No. [D2017-0709](#). Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement) and (iv) the implausibility of any good faith use to which the domain name may be put.

Applying these factors to the circumstances of these proceedings: (i) the Panel notes the established international repute of the Complainant's FORD trade mark in the automotive sector; (ii) the Respondent has not provided a response to the Complaint nor is there any evidence of actual or contemplated good faith use of any of the disputed domain names; (iii) the contact addresses for both registrants are garbled and plainly spurious so the Respondent has effectively concealed its identity; and (iv) there is no plausible good faith use to which the disputed domain names can be put by the Respondent. In the circumstances of this case, the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy. See also, for example, *Alstom v. Contact Privacy Inc. Customer 1244065242 / Michelle Chung, Chung Limited Co*, WIPO Case No. [D2019-2718](#).

The Respondent's activation of mail exchange records for a further three of the disputed domain names, which would enable them to be used for sending phishing emails provides further affirmation of the Respondent's bad faith.

Having reviewed the record, and for the reasons set out above, the Panel finds the Respondent's registration and use of the disputed domain names has been in bad faith.

## 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 names, <fordaccounts.com>, <fordapplicants.com>, <fordapplications.com>, <fordclient.com>, <fordclients.com>, <fordclientslogin.com>, <fordmoneyaccounts.com>, <fordmoneyapplicationform.com>, <fordmoneyapplicants.com>, <fordmoneyapplication.com>, <fordmoneyapplicationform.com>, <fordmoneyapplications.com>, <fordmoneyapply.com>, <fordmoneyclient.com>, <fordmoneyclients.com>, <fordmoneylogin.com>, <fordmoneyonline.com>, <fordmoneysavers.com>, <fordmoneysaving.com>, <fordmoneysavings.com>, <fordmoneyuk.com>, <fordonlineportal.com>, <fordportalonline.com>, and <fordsavers.com>, be transferred to the Complainant.

*/Antony Gold/*

**Antony Gold**

Sole Panelist

Date: February 12, 2024