

## **ADMINISTRATIVE PANEL DECISION**

Fundbox Ltd. v. Fund Box, Fundboxgrant  
Case No. D2024-0096

### **1. The Parties**

The Complainant is Fundbox Ltd., Israel, represented by Sheppard, Mullin, Richter & Hampton LLP, United States of America (“United States”).

The Respondent is Fund Box, Fundboxgrant, Nigeria.

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

The disputed domain name <fundboxgrant.com> is registered with PSI-USA, Inc. dba Domain Robot (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 10, 2024. On January 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 12, 2024, 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 (Privacy service provided by Private Name Services Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 15, 2024, 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 January 16, 2024

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 January 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 6, 2024. The Respondent sent email communications to the Center on January 15 and 18, 2024 and February 7, 2024.

The Center appointed Kaya Köklü as the sole panelist in this matter on February 8, 2024. 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 financial service platform from Israel, that offers credit and payment solutions to small and medium sized businesses.

The Complainant owns numerous FUNDBOX trademarks, including the United States Trademark Registration No. 6,414,305, registered on July 13, 2021, for FUNDBOX, and United States Trademark Registration No. 6,220,269, registered on December 15, 2020, for FUNDBOX, both covering protection for inter alia financial services as protected in class 35 respectively 42 (Annex 5 to the Complaint).

The Complainant further owns and operates its official website at “www.fundbox.com” (Annex 4 to the Complaint).

The Respondent is reportedly located in Nigeria, whereas its true identity remains unclear due to seemingly incomplete contact information.

The disputed domain name was registered on December 14, 2023.

According to the case record, the disputed domain name resolved to a website purportedly offering credit options for businesses and allegedly inviting Internet users to apply for a credit (by requesting personal information and potentially sensitive business data, Annex 7 to the Complaint). The associated website provided for multiple features that created a look and feel as if it was operated by the Complainant (which is not), such as the prominent use of the Complainant’s word and figurative FUNDBOX trademark (Annex 8 to the Complaint).

At the time of the Decision, the disputed domain name does not resolve to an active website anymore.

#### **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.

##### **B. Respondent**

The Respondent did not reply to the Complainant’s contentions. The Center only received informal email communications from the Respondent on January 15 and 18, as well as on February 7, 2024.

While the Respondent in its first email communication to the Center on January 15, 2024 only raised general questions on the proceeding (“*I seem to have issues understanding your point, can you break it down for me?*”), the Respondent in its second email communication of January 18, 2024 literally stated: “*got to speak with my team in charge of website development and we have carried out proper investigations and I’m very saddened by current situation I’ll however like to reiterate that Fundbox and Fundboxgrant though sounding oddly familiar has no similarities whatsoever and has no intent of ripping off or making any kind of profit Off Fundbox. I have personally asked them to refrain from using and fundbox logo as that is very lazy and unprofessional in thier part and will monitor the work further to ensure this.*”

In its later email communications on February 7, 2024, the Respondent stated that there is no need for appointing a Panel in this case, while on the same day, he further replied to the Center concerning a possible suspension of the proceeding to implement a settlement agreement by merely stating “*settlement to what?*”.

## 6. Discussion and Findings

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights; and
- (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.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant’s contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

For the evaluation of this case, the Panel has taken note of the [WIPO Overview 3.0](#), and, where appropriate, will decide consistent with the consensus views stated therein.

### 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.

The Complainant has shown rights in respect of the FUNDBOX trademark for the purposes of the Policy by way of various trademark registrations. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Complainant’s FUNDBOX mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the FUNDBOX mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here “grant”, 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.

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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available 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 such as those enumerated in the Policy or otherwise. The Respondent has particularly failed to demonstrate any of the other non-exclusive circumstances evidencing rights or legitimate interests under the Policy, paragraph 4(c) or other evidence of rights or legitimate interests in the disputed domain name.

According to the evidence provided in Annex 8 to the Complaint, the disputed domain name was initially being used to resolve to a website impersonating the Complainant with the reproduction of the Complainant’s design mark as well as the same look and feel of the Complainant’s official website. The Panel further notes that, as provided in Annex 7, the subsequent use of the disputed domain name, with the apparent removal of the Complainant’s design mark and slight changes of the layout of the website indicates that the disputed domain name was most likely being used to gather personal information from Internet users looking for the Complainant’s services and not for a legitimate bona fide offering of services, considering the incomplete portions of information on the website.

In both cases, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name as panels have held that the use of a domain name for illegal activity, here, impersonation and potential phishing, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established.

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

The Panel notes that, 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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that the Respondent must have had the Complainant and its FUNDBOX trademark in mind when registering the disputed domain name. It is obvious to the Panel that the Respondent has deliberately chosen the disputed domain name, which comprises the Complainant’s FUNDBOX trademark identically, to target the Complainant and its financial services. Consequently, the Panel is convinced that the Respondent has registered the disputed domain name in bad faith.

With respect to the use of the disputed domain name in bad faith, the Panel finds that the Respondent has intentionally registered and used the disputed domain name in order to generate traffic to its own website by misleading third parties in a false belief that the associated website is operated or at least authorized by the Complainant. Particularly, the inherently misleading nature of the disputed domain name and the overall design of the associated website, including the prominent use of the Complainant's FUNDBOX trademark, indicates the Respondent's intention to impersonate the Complainant, apparently for illegitimate if not even illegal purposes.

As regards bad faith use, the overall content and design of the website associated to the disputed domain name, first blatantly impersonating the Complainant, and later, attempting to gather personal information from Internet users in an incomplete website, as well as the inherently misleading nature of the disputed domain name is, in view of the Panel, sufficient evidence that the Respondent intentionally tries to attract Internet users to its website by creating a likelihood of confusion with the Complainant and its financial services provided under its FUNDBOX trademark.

Panels have held that the use of a domain name for illegal activity, here, impersonation and potential phishing, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The fact that the disputed domain name currently no longer resolves to an active website does not prevent a finding of bad faith.

The Panel finds that the Complainant has established the third element 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 <fundboxgrant.com> be transferred to the Complainant.

*/Kaya Köklü/*

**Kaya Köklü**

Sole Panelist

Date: February 22, 2024