

ADMINISTRATIVE PANEL DECISION

Freudenberg SE v. Ibe Mark, Ibeji Globals
Case No. D2024-0188

1. The Parties

The Complainant is Freudenberg SE, Germany, represented by Bardehle Pagenberg Partnerschaft mbB, Germany.

The Respondent is Ibe Mark, Ibeji Globals, Uganda.

2. The Domain Name and Registrar

The disputed domain name <freudenberg-pm.cam> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 17, 2024. On January 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 17, 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 (Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 18, 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 18, 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 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 9, 2024.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on February 12, 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 part of the Freudenberg Group, a family-owned group of companies and a supplier of houseware and cleaning products, automobile parts, textiles, building materials, telecommunications, and other sectors. Founded in 1849, the Complainant's group is present nowadays in 60 countries, counting more than 50,000 employees.

One of the group companies is Freudenberg Performance Materials, a global manufacturer of nonwovens and other textiles for various markets and applications, founded in 2015 and with approximately 5,000 employees and sales of EUR 1.6 billion in 2022. This company's official website is available at "www.freudenberg-pm.com".

The Complainant is the owner of the following, amongst other, trademark registrations:

- International trademark registration No. 1314338, for the word and device mark FREUDENBERG, registered on December 18, 2014, in classes 1-12, 14-45; and
- International trademark registration No. 1321217, for the word mark FREUDENBERG, registered on December 18, 2014, in classes 1-12, 14-44.

The disputed domain name was registered on November 13, 2023, and it resolved to a webpage apparently advertising business funding. Active mail servers (MX records) have been configured at the disputed domain name.

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 disputed domain name reproduces in its entirety the Complainant's well-known trademark with the addition of "pm" which is used by the Complainant to identify its "Performance Materials" business, likely giving the relevant public the wrong impression that the disputed domain name is held by the Complainant, what is strengthened by the fact that the disputed domain name is registered under the generic Top-Level Domain ("gTLD") ".cam" and can easily be confused (in a typical typosquatting case) with the gTLD ".com" and highly similar to the Complainant's prior <freudenberg-pm.com> domain name.

As to the Respondent's lack of rights or legitimate interests in respect of the disputed domain name, the Complainant contends that: (i) the Respondent does not own any registered trademark of name corresponding to the disputed domain name; and (ii) no license or authorization of any other kind has been given by the Complainant to the Respondent to use the disputed domain name; .

Lastly, in what it relates to the registration of the disputed domain name in bad faith, the Complainant asserts that the Respondent must have been aware of the Complainant's prior rights over the FREUDENBERG name and trademark, not only because it is operating since the 19th century but also in view of the long existing trademark registrations at the time of the registration of the disputed domain name. As to the use of the disputed domain name in bad faith the Complainant contends that it presently resolves to landing page that is actually a fake website advertising business funding since none of the links indicated on the page resolve to any other websites and alert messages are displayed by browsers. Moreover, active MX records have been configured and there is a high risk of the disputed domain name being used in connection with a fraudulent scam.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth three requirements, which have to be met for this Panel to order the transfer of the disputed domain name to the Complainant:

- (i) the disputed domain name is identical or confusingly similar to a trademark 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 name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Complainant must prove in this administrative proceeding that each of the aforesaid three elements is present in order to obtain the transfer of the disputed domain name.

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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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

Although the addition of other terms, here “-” and “pm”, may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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.

In that sense, the Complainant has indeed stated that no license or authorization of any other kind has been given by the Complainant to the Respondent to use the disputed domain name as well as that the Respondent is unknown to the Complainant and there are no records of any employee or other contractual relationship with it.

The composition of the disputed domain name, which reproduces the entirety of the Complainant's trademark, with the addition of a hyphen and the term "pm", which is used by the Complainant to identify its "Performance Materials" business via its almost identical <freudenberg-pm.com> domain name, carries a risk of implied affiliation with the Complainant and thus, cannot confer rights or legitimate interests in the disputed domain name.

Moreover, the configuration of active mail servers in connection with the disputed domain name which differs solely by a letter in the gTLD ".cam" to the Complainant's ".com" domain name together with a website that resolves from the disputed domain name that does not appear to contain any actual content rather being a fraudulent landing webpage indicate that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name. In that sense, Panels have held that the use of a domain name for illegal activity such as 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.

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.

This case presents the following circumstances which indicate under the balance of probabilities bad faith registration and use of the disputed domain name:

- a) the composition of the disputed domain name reproducing the entirety of the Complainant's trademark and differing by a single letter in the gTLD to the Complainant's domain name (previous UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4);
- b) the use of the disputed domain name to resolve to an apparently fake website with inoperable links and browser warnings concerning the potential fraudulent nature of the website being accessed;
- c) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use by it of the disputed domain name;
- d) the Respondent's choice to retain a privacy protection service; and
- e) the indication of incomplete or false contact details not being the Center able to deliver written communication to the Respondent.

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

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 <freudenberg-pm.cam> be transferred to the Complainant.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Sole Panelist

Date: February 26, 2024