

ADMINISTRATIVE PANEL DECISION

Forbes LLC v. Manish Singh, Getpopular
Case No. D2024-0201

1. The Parties

The Complainant is Forbes LLC, United States of America (“United States”), represented by Riker Danzig LLP, also United States.

The Respondent is Manish Singh, Getpopular, India.

2. The Domain Name and Registrar

The disputed domain name <forbeslosangeles.com> (“the Domain Name”) 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 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 18, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 26, 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 amended Complaint on January 30, 2024.

The Center verified that the Complaint together with the amended 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 February 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 1, 2024.

The Center appointed Dawn Osborne as the sole panelist in this matter on March 7, 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 the successor in title to Forbes Inc. and the latter's rights in the famous mark FORBES for publications and online publications with first use established since 1917 on FORBES Magazine. The Complainant owns registered trade marks, inter alia, in the United States for the mark FORBES including United States Trade Marks numbers 1141299, registered since November 11, 1980, for publications, and 4382540 registered August 13, 2013, for electronic publications, the latter used since 2009.

The Domain Name registered in 2023 has been used for a site offering competing electronic magazine articles using the Complainant's mark in its logo form in the masthead of the site.

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 Domain Name.

Notably, the Complainant contends that:

The Domain Name is confusingly similar to the Complainant's FORBES mark containing it in its entirety and adding only the generic term 'Los Angeles' and the generic Top Level Domain ("gTLD") ".com" neither of which prevents said confusing similarity.

The Respondent does not have any rights or legitimate interests in the Domain Name, is not commonly known by it and is not authorised by the Complainant.

The Domain Name has been pointed to a site offering competing electronic publications using the Complainant's famous FORBES mark in its logo form as a masthead which makes the site appear to be connected to the Complainant. This is not a bona fide offering of goods or services. It is registration and use in opportunistic bad faith causing confusion amongst Internet users and causing disruption to the Complainant's business in actual knowledge of the Complainant's rights.

B. Respondent

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

6. Discussion and Findings

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 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 trade mark 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 Domain Name. Accordingly, the 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, “los angeles” 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 Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The gTLD “.com” is a functional element of a domain name and does not prevent confusing similarity between the Complainant’s mark and the Domain Name being typically disregarded for the purposes of the confusing similarity test. [WIPO Overview 3.0](#), section 1.11.

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 in contention (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 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 Domain Name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity – here, impersonation/passing off through use of the Complainant’s FORBES mark in a logo form in the masthead of the Respondent’s web site to offer competing electronic publications, 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.

In the present case, the Panel notes that the Respondent has used the Complainant’s FORBES trade mark in the masthead for the Respondent’s site to offer competing electronic publications which disrupts the business of a competitor and amounts to intentionally attempting to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s mark. The use of the Complainant’s logo shows the Respondent had and has actual knowledge of the Complainant, the Complainant’s mark and the Complainant’s rights, business and services.

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.

Panels have held that the use of a domain name for illegal activity – here, impersonation/passing off by means of use of the Complainant's FORBES trade mark as a logo in the masthead of the Respondent's competing web site 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 Domain Name constitutes bad faith under 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 Domain Name <forbeslosangeles.com> be transferred to the Complainant.

/Dawn Osborne/

Dawn Osborne

Sole Panelist

Date: March 21, 2024