

ADMINISTRATIVE PANEL DECISION

Stratos Global Services, LLC v. Joelle Iskandar
Case No. D2024-1201

1. The Parties

The Complainant is Stratos Global Services, LLC, United States of America (“United States”), represented by SafeNames Ltd., United Kingdom.

The Respondent is Joelle Iskandar, Hong Kong, China.

2. The Domain Name and Registrar

The disputed domain name <fxcm.uno> is registered with Hostinger Operations, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 20, 2024. On March 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 21, 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 Protect, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 25, 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 March 26, 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 April 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 23, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 24, 2024.

The Center appointed Assen Alexiev as the sole panelist in this matter on April 26, 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 was founded in 1999. It is a retail broker in the foreign currency exchange (“forex”) market and is active in the online forex trading, contract for differences trading and related services.

The Complainant is the owner of the following trademark registrations for the sign “FXCM” (the “FXCM trademark”):

- the United States trademark FXCM with registration No. 2620953, registered on September 17, 2002 for services in International Class 36; and
- the European Union trademark FXCM with registration No. 003955523, registered on November 3, 2005 for services in International Classes 35, 36, and 41.

The Complainant is also the owner of the domain name <fxcm.com> registered on July 1, 1997, which resolves to its official website.

The disputed domain name was registered on July 25, 2023. It is currently inactive. At the time of filing of the Complaint, the disputed domain name resolved to a website that contained articles advertising various third-party online forex trading services and links to their websites.

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.

The Complainant states that the disputed domain name is identical to the FXCM trademark, because it incorporates this trademark without any addition or alteration.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, because it is not commonly known as “FXCM”, has no trademark rights in “FXCM”, and has not been licensed by the Complainant to use domain names featuring the FXCM trademark, which is distinctive and is used in commerce only by the Complainant.

The Complainant maintains that the Respondent has registered and used the disputed domain name to take advantage of the goodwill of the FXCM brand. It points out that the Respondent is using the disputed domain name to offer news articles about online forex trading, which is competitive to the Complainant. It notes that the brand FXCM is well-known in the forex trading industry, while the articles offered on the Respondent’s website are purportedly authored by “FXCM” when this is not the case, and some of them have links to third-party websites. The Complainant points out that there is no disclaimer distinguishing the website at the disputed domain name from that of the Complainant, and no disclaimer relating to the information displayed in the articles published on the website. The Complainant maintains that such use of the FXCM trademark in the disputed domain name and the associated website creates a false appearance of endorsement by the Complainant of the disputed domain name and of the third-party websites featured on the associated website, which creates a risk to the Complainant’s goodwill and reputation in the FXCM brand, and is not a bona fide business activity. In the Complainant’s view, the Respondent attempted to divert consumers to the website at the disputed domain name by using the FXCM trademark and is not

carrying out a legitimate noncommercial activity through the disputed domain name, as the articles link to third-party websites, which are not endorsed by the Complainant, and there are indications that the Respondent intended to use the website at the disputed domain name for commercial services, such as the box stating “Apply Now – 30% Off”.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. It states that its earliest trademark registration predates the registration of the disputed domain name by 21 years, and adds that its FXCM trademark has accrued a substantial goodwill since the Complainant’s establishment in connection with the provision of forex and contracts for differences online trading. According to the Complainant, the Respondent uses the FXCM trademark in the disputed domain name to attract traffic in the hope of directing visitors to third-party websites through links in the articles published on its website, and to obtain subscribers to its newsletter, and has thus intentionally attempted to attract, for commercial gain, Internet users to the website at the disputed domain name or other on-line locations by creating a likelihood of confusion with the Complainant’s FXCM trademark as to the source, sponsorship, affiliation, or endorsement of its website or other locations or of the products or services on its website or other locations.

The Complainant notes the Respondent’s activation of mail exchange (“MX”) records for the disputed domain names aggravates the risk that the Respondent could engage in harmful activity through email distribution, given the implied affiliation of the disputed domain name with the Complainant’s FXCM trademark.

The Complainant adds that the Respondent ignored the cease-and-desist letter sent by the Complainant on February 6, 2024.

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 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 FXCM trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the FXCM trademark is reproduced within the disputed domain name without any other elements. Accordingly, the disputed domain name is identical to the FXCM trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 disputed domain name is identical to the FXCM trademark and carries a high risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1. It has been used for a website that stated "Unlock Your Trading Potential with our Cutting-Edge Forex Platform", and featured articles with the titles "Best Fintech Marketing Agency", "The Ultimate Trading Arsenal: Unveiling Control, Power, and Speed Across Our Platforms", "Precision in Trading: Unleashing Control, Power, and Speed Through Our Platforms", and "Unrivaled Trading Experience". These articles advertised services competing with the services offered by the Complainant. Internet users visiting the Respondent's website at the disputed domain name in the expectation that it was offered by the Complainant could indeed be confused that the third-party services advertised there were endorsed by the Complainant. The registration and use of the disputed domain name thus unfairly exploits the goodwill of the Complainant and its FXCM trademark for commercial gain, which cannot give rise to rights or legitimate interests in the disputed domain name.

The Panel therefore 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.

As discussed in section 6.B above, the disputed domain name is identical to the FXCM trademark, which was first registered 21 years earlier, and carries a high risk of implied affiliation with the Complainant. At the time of filing of the Complaint, it resolves to a website advertising various third-party services that competed with the services provided by the Complainant, which may well confuse Internet users that such services have been endorsed by the Complainant. An additional risk for confusion of Internet users is created by the fact that MX records have been activated for the disputed domain name, since recipients of communications from email addresses at the disputed domain name may well believe that such communications originate from the Complainant, given the identity between the disputed domain name and the Complainant's FXCM trademark.

The Respondent has not submitted a Response and has not disputed the arguments and evidence submitted by the Complainant or given any plausible explanation for its actions.

In view of the above, the Panel finds that it is more likely than not that the Respondent was well aware of the Complainant when registering the disputed domain name and that it has registered the disputed domain name targeting the Complainant in an attempt to attract, for commercial gain, Internet users to the website at the disputed domain name and to the third-party websites advertised on it, by creating a likelihood of confusion with the Complainant's FXCM trademark as to the source, sponsorship, affiliation, or endorsement of its website and of the other locations advertised there and of the products or services featured there.

The Panel therefore 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 <fxcm.uno> be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: May 8, 2024