

ADMINISTRATIVE PANEL DECISION

Wikimedia Foundation, Inc. v. Joseph Lewis, Ecommerce Company; Kevin Lesnar, Infinity Project Manager; Soft Fellow
Case No. D2024-2343

1. The Parties

The Complainant is Wikimedia Foundation, Inc., United States of America (“United States”), represented by Zacco Sweden AB, Sweden.

The Respondents are Joseph Lewis, Ecommerce Company, United States; Kevin Lesnar, Infinity Project Manager, United States; and Soft Fellow, Pakistan.

2. The Domain Names and Registrars

The disputed domain names <thewikispecialists.com>, <usawikispecialists.com>, <uswikispecialists.com> and <wikidraft.org> are registered with NameCheap, Inc., while the disputed domain names <wikiexpertsguide.com>, <wikiexpertsonline.com>, <wikipediaprofile.com>, <wikispecialists.com> and <wikiwritingservice.com> are registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrars”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 8, 2024. On June 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On June 12, 2024, 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 (Hidden details/Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint.

The Center sent an email communication to the Complainant on June 20, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, 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 and/or that all domain names are under common control. On June 20, 2024, one of the Respondents, namely Joseph Lewis, sent an email communication to the Center. On June 23, 2024, the Complainant filed an amendment to the Complaint, requesting the consolidation of multiple Respondents.

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 Respondents of the Complaint, and the proceedings commenced on July 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 28, 2024. On July 9, 2024, one of the Respondents, namely Joseph Lewis, sent an email to the Center submitting that the disputed domain names <wikiexpertsguide.com>, <wikiexpertsonline.com>, <wikipediaprofile.com>, <wikispecialists.com> and <wikiwritingservice.com> had been taken down and were ready to be released. On July 26, 2024, the Complainant requested to suspend the proceedings and the suspension was granted on August 5, 2024, until August 28, 2024. On August 21, 2024, the Complainant submitted a request for reinstatement of the proceeding. Accordingly, the Center reinstated the proceeding on August 23, 2024.

The Respondents did not submit any formal response.

The Center appointed Edoardo Fano as the sole panelist in this matter on August 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.

The Panel has not received any requests from the Complainant or the Respondents regarding further submissions, waivers or extensions of deadlines, and the Panel has not found it necessary to request any further information from the Parties.

Having reviewed the communication records in the case file provided by the Center, the Panel finds that the Center has discharged its responsibility under the Rules, paragraph 2(a), “to employ reasonably available means calculated to achieve actual notice to [the] Respondent”. Therefore, the Panel shall issue its Decision based upon the Complaint, the Policy, the Rules and the Supplemental Rules and without the benefit of a formal response from the Respondents.

The language of the proceeding is English, being the language of the Registration Agreements, as per paragraph 11(a) of the Rules.

4. Factual Background

The Complainant is Wikimedia Foundation, Inc., a United States nonprofit charitable organization dedicated to encouraging the growth, development and distribution of free, multilingual, educational content. The Complainant owns several trademark registrations for WIKIPEDIA all over the world, among which the following ones:

- United States Registration No. 3040722 for WIKIPEDIA, registered on January 10, 2006;
- United States Registration No. 3505429 for WIKIPEDIA, registered on September 23, 2008;
- United States Registration No. 4710546 for WIKIPEDIA, registered on March 31, 2015;
- International Trademark Registration No. 839132 for WIKIPEDIA, registered on December 16, 2004;
- International Trademark Registration No. 907474 for WIKIPEDIA, registered on September 20, 2006;
- International Trademark Registration No. 1239634 for WIKIPEDIA, registered on June 30, 2014;
- European Union Trade Mark No. 012847836 for WIKIPEDIA, registered on December 4, 2014.

The Complainant also operates on the Internet, its main website being “www.wikipedia.org”, and owns several domain name registrations including the term “wiki”, namely the common abbreviation of the Complainant’s trademark WIKIPEDIA.

The Complainant provided evidence in support of the above.

According to the Whois records, the disputed domain names were registered on the following dates: <thewikispecialists.com> on March 14, 2024, <usawikispecialists.com> on May 24, 2023, <uswikispecialists.com> on July 15, 2023, <wikidraft.org> on April 16, 2024, <wikiexpertsguide.com> on April 8, 2022, <wikiexpertsonline.com> on April 8, 2022, <wikipediaprofile.com> on March 16, 2023, <wikispecialists.com> on April 8, 2022, and <wikiwritingservice.com> on November 3, 2021.

All the disputed domain names are currently inactive, however, when the Complaint was filed, seven of the disputed domain names, namely <thewikispecialists.com>, <usawikispecialists.com>, <wikiexpertsonline.com>, <wikiexpertsguide.com>, <wikipediaprofile.com>, <wikispecialists.com> and <wikiwritingservice.com>, resolved to very similar websites in which the Complainant's trademark and logo were reproduced, pretending to be a Complainant's official website; one of the disputed domain names, namely <uswikispecialists.com>, redirected to the website at the disputed domain name <usawikispecialists.com>; one of the disputed domain names, namely <wikidraft.org>, redirected to a webpage displaying a login page; finally, two of the disputed domain names, <wikispecialists.com> and <usawikispecialists.com>, were also used to send emails to third parties, conducting a possible fraudulent phishing activity by impersonating the Complainant and soliciting personal information.

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 names.

Notably, the Complainant states that the disputed domain names are confusingly similar to its trademark WIKIPEDIA, as in one of them the Complainant's trademark is incorporated in its entirety, while in the other ones the term "wiki", being the common abbreviation of the Complainant's trademark WIKIPEDIA, is fully incorporated, and combined with generic terms.

Further to section 6.1 below, the Complainant argues that the disputed domain names are under common control and thus addresses the Respondents in the singular. The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain names since it has not been authorized by the Complainant to register the disputed domain names or to use its trademark within the disputed domain names, it is not commonly known by the disputed domain names and it is not making either a bona fide offering of goods or services or a legitimate noncommercial or fair use of the disputed domain names. Seven of the disputed domain names resolved to websites in which the Complainant's trademark and logo were reproduced, pretending to be a Complainant's official website, while two of the disputed domain names were used by the Respondent to send emails to third parties, conducting a possible fraudulent phishing activity by impersonating the Complainant and soliciting personal information.

The Complainant submits that the Respondent has registered the disputed domain names in bad faith, since the Complainant's trademark WIKIPEDIA is well-known. Therefore, the Respondent targeted the Complainant's trademark at the time of registration of the disputed domain names and the Complainant contends that the use of the disputed domain names to conduct fraudulent phishing activity as well as to attract, for commercial gain, Internet users to the Respondent's websites, creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's websites, qualifies as bad faith registration and use.

B. Respondents

The Respondents have made no formal response to the Complainant's contentions.

Only one of the Respondents, namely Joseph Lewis, sent the following two email communications to the Center:

“Before we take down these domains, could you please provide the trademark documents or listing numbers if they are registered with someone else claiming protection over the aforementioned domains? Additionally, we would like to verify your authenticity. Are you with WIPO, or are you attempting to represent WIPO?” (on June 20, 2024);

“We have down all of our domains wikispecialists.com wikipediaprofile.com wikiexpertsguide.com wikiexpertsonline.com wikiwritingservice.com you can go ahead and ask Alibaba to release these domains into your name.” (on July 9, 2024).

6. Discussion and Findings

6.1 Procedural issue - Consolidation of Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant’s request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant’s request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) section 4.11.2.

As regards common control, the Panel notes that all the disputed domain names follow a very similar naming pattern, and that seven of the disputed domain names, namely <thewikispecialists.com>, <usawikispecialists.com>, <wikiexpertsonline.com>, <wikiexpertsguide.com>, <wikipediaprofile.com>, <wikispecialists.com> and <wikiwritingservice.com>, redirected to very similar if not identical websites, and they were all involved in the same commercial activity aimed to impersonate the Complainant. As regards the two remaining disputed domain names, <wikidraft.org> redirected to a webpage displaying a login page, while <uswikispecialists.com> redirected to the website at the disputed domain name <usawikispecialists.com>. Finally, the Panel notes that the registrants of the disputed domain names did not rebut any of the Complainant’s statements or its consolidation request.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as “the Respondent”) in a single proceeding.

6.2 Substantive Issues

Paragraph 4(a) of the Policy lists three elements, which the Complainant must satisfy in order to succeed:

- (i) the disputed domain names are 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 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 trademark and the disputed domain names. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds 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 Panel finds the entirety of the mark WIKIPEDIA is reproduced within one of the disputed domain names, while within the other disputed domain names the term "wiki", being a distinctive element and the common abbreviation of the Complainant's trademark WIKIPEDIA, is reproduced. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Moreover, as regards the disputed domain names incorporating the term "wiki", the Panel notes the use of the disputed domain names indicates an intent to target the Complainant and its WIKIPEDIA mark, and affirms the finding of confusing similarity. [WIPO Overview 3.0](#), section 1.15.

While the addition of other terms, here "the", "specialists", "usa", "us", "draft", "experts", "guide", "online", "profile", "writing", "service", 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 names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

It is also well accepted that a generic Top-Level Domain ("gTLD"), in this case ".com" and "org", is typically ignored when assessing the similarity between a trademark and a domain name. [WIPO Overview 3.0](#), section 1.11.1.

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.

While the overall burden of proof in UDRP proceedings is on the complainant, UDRP panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often 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 names. 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 present 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.

Panels have held that the use of a domain name for illegal activity, here impersonation/passing off, 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, regarding the registration in bad faith of the disputed domain names, the reputation of the Complainant's trademark WIKIPEDIA is clearly established, and the Panel finds that the Respondent likely knew of the Complainant and deliberately registered the confusingly similar disputed domain names, especially because seven of the disputed domain names, namely <thewikispecialists.com>, <usawikispecialists.com>, <wikiexpertsonline.com>, <wikiexpertsguide.com>, <wikipediaprofile.com>, <wikispecialists.com> and <wikiwritingservice.com>, resolved to very similar websites in which the Complainant's trademark and logo were reproduced, pretending to be a Complainant's official website, while two of the disputed domain names, namely <wikispecialists.com> and <usawikispecialists.com>, were used by the Respondent to send emails to third parties, conducting a possible fraudulent phishing activity by impersonating the Complainant and soliciting personal information.

The Panel further notes that the above seven disputed domain names were also used in bad faith, since the Respondent was trying to impersonate the Complainant, likely in connection to a phishing scheme, with the purpose of intentionally attempting to create a likelihood of confusion with the Complainant's trademark as to the disputed domain names' source, sponsorship, affiliation or endorsement. [WIPO Overview 3.0](#), sections 3.1.4 and 3.4.

Finally, as far as the use in bad faith of the two remaining disputed domain names was concerned, <wikidraft.org> redirected to a webpage displaying a login page, and <usawikispecialists.com> redirected to the website at the disputed domain name <usawikispecialists.com>, therefore they were both also used likely in connection to a phishing scheme, with the purpose of intentionally attempting to create a likelihood of confusion with the Complainant's trademark as to the disputed domain names' source, sponsorship, affiliation or endorsement. [WIPO Overview 3.0](#), sections 3.1.4 and 3.4.

As regards the current use of the disputed domain names, which are all inactive, panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the record, the Panel notes the distinctiveness and reputation of the Complainant's trademark, the composition of the disputed domain names, the previous use of the disputed domain names, and the failure of the Respondent to submit a response and finds that 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.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names 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 disputed domain names <thewikispecialists.com>, <usawikispecialists.com>, <uswikispecialists.com>, <wikidraft.org>, <wikiexpertsguide.com>, <wikiexpertsonline.com>, <wikipediaprofile.com>, <wikispecialists.com> and <wikiwritingservice.com> be transferred to the Complainant.

/Edoardo Fano/

Edoardo Fano

Sole Panelist

Date: September 9, 2024