

ADMINISTRATIVE PANEL DECISION

Microsoft Corporation v. Griffin Roderick
Case No. D2024-2633

1. The Parties

Complainant is Microsoft Corporation, United States of America (“United States”), represented by D.M. Kisch Inc., South Africa.

Respondent is Griffin Roderick, United States.

2. The Domain Name and Registrar

The disputed domain name <forsaboost.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 27, 2024. On June 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 28, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint.

The Center sent an email communication to Complainant on July 1, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on July 3, 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 Respondent of the Complaint, and the proceedings commenced on July 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 31, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 8, 2024. Due to an administrative oversight, it appears that the Center’s Written Notice was not sent to Respondent’s physical addresses. In light of the above, the Center granted

Respondent a ten-day period (e.g., through August 19, 2024) in which to indicate whether it wished to participate to this proceeding. The Center received two informal email communications from Respondent on August 16, 2024.

The Center appointed Lorelei Ritchie 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.

4. Factual Background

Complainant is a multinational technology company based in the United States. For years prior to the registration of the disputed domain name, Complainant has included in its offerings video game products under the mark FORZA.

Complainant is the owner of several registrations in the United States and globally for its FORZA mark. These include, among others, International Registration No. 3101727 (registered June 6, 2006) for FORZA MOTORSPORT, and United States Registration No. 6821441 (registered August 16, 2022) for FORZA, as well as United States Registration No. 3785954 (registered May 4, 2010) for a design logo.

The disputed domain name was registered on August 28, 2022. Respondent has set up a website at the URL associated with the disputed domain name, with information about products offered by Complainant under its FORZA mark, as well as third-party products. Complainant has not authorized any activities by Respondent, nor any use of its trademarks thereby.

5. Parties' Contentions

A. Complainant

Complainant contends that (i) the disputed domain name is identical or confusingly similar to Complainant's trademarks, (ii) Respondent has no rights or legitimate interests in the disputed domain name; and (iii) Respondent registered and is using the disputed domain name in bad faith.

Specifically, Complainant contends that it owns rights to the FORZA mark for "racing video game services" and related products, for which it has gained "considerable international success." Complainant also asserts that it owns the registration for the domain name <forza.net>, which Complainant uses to communicate with prospective consumers regarding products offered under its FORZA mark.

Complainant contends that Respondent has incorporated in full Complainant's FORZA mark into the disputed domain name, with only an "intentional 'misspelling,'" along with the dictionary term "boost." Complainant further contends that Respondent lacks rights or legitimate interest in the disputed domain name, and rather has registered and is using it in bad faith, having simply acquired the disputed domain name for Respondent's own commercial gain.

B. Respondent

As noted in Section 3, above, the Center received two informal email communications from Respondent on August 16, 2024. Both communications included questions regarding possible terms of a settlement, and both communications referenced a possible change in the "name" or "business name" used by Respondent. The Panel notes that this proceeding is limited to the issue of ownership of the disputed domain name, and does not include analysis as to any other rights that Respondent may or may not have to otherwise reference Complainant's marks. Respondent did not reply to Complainant's contentions regarding the disputed domain name.

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 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. Complainant has shown rights in respect of a trademark or service mark, FORZA, for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Although the addition of other terms (here, the term "boost"), along with a deliberate misspelling, 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 Complainant's mark for purposes of the Policy, and the FORZA mark remains sufficiently recognizable in the disputed domain name for the purposes of the Policy despite the single letter misspelling. [WIPO Overview 3.0](#), sections 1.8 and 1.9.

The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which 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.

Complainant notes that the website associated with the disputed domain name purports to offer products or services that include Complainant's FORZA mark. Prior UDRP Panels have indicated that a reseller may be considered to have rights or legitimate interests in a mark, provided certain requirements are met. These generally include that: (i) the site is actually offering the goods at issue; (ii) the site is used only to sell the trademarked goods; (iii) the site accurately and prominently discloses the registrant's relationship to the mark holder; and (iv) respondent does not try to "corner the market" in domain names that reflect the mark. See [WIPO Overview 3.0](#), section 2.8; see also *Ok! Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#).

The Panel finds that these qualifications are not fulfilled by the website associated with the disputed domain name. Rather, Complainant has submitted evidence that Respondent uses the URLs to purportedly offer Complainant's FORZA products, as well as products from third parties. Furthermore, the website does not appear to include a disclaimer of affiliation or endorsement by Complainant.

Respondent has not put forward any claims or evidence that would suggest rights or legitimate interests for the purposes of the Policy.

The Panel finds that Complainant has provided sufficient evidence of Respondent's lack of "rights or legitimate interests" in accordance with paragraph 4(a)(ii) of the Policy, which Respondent has not rebutted, and accordingly the Panel finds the second element of the Policy has been established.

D. Registered and Used in Bad Faith

There are several ways that a complainant can demonstrate that a domain name was registered and used in bad faith. As noted in Section 4 of this Panel's decision, the record includes evidence that the website associated with the disputed domain name is being used to offer goods and services related to Complainant (including games bearing the FORZA trademark) and third parties via a domain name that is confusingly similar to Complainant's well-known FORZA trademark. Hence, Respondent clearly knew of Complainant when registering the disputed domain name and is trading on the goodwill of Complainant's trademarks to attract Internet users, presumably for Respondent's own commercial gain, to Respondent's website.

Therefore, the Panel finds sufficient evidence that Respondent registered and used the disputed domain name in bad faith for purposes of paragraph (4)(a)(iii) 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 <forsaboost.com> be transferred to Complainant.

/Lorelei Ritchie/

Lorelei Ritchie

Sole Panelist

Date: September 9, 2024