

ADMINISTRATIVE PANEL DECISION

Forbes LLC v. Luis Tinajero
Case No. D2024-3161

1. The Parties

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

The Respondent is Luis Tinajero, Mexico.

2. The Domain Name and Registrar

The disputed domain name <forbesmexico.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 July 31, 2024. On August 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 3, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 8, 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 August 9, 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 August 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 2, 2024. The Respondent did not submit any response by the due date. Accordingly, the Center notified the Respondent’s default on September 6, 2024. Later the same day, the Respondent an email communication in English to the Center.

The Center appointed Matthew Kennedy as the sole panelist in this matter on September 13, 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 and its affiliates participate in the fields of publishing, investment, finance, and business. Since 1917, the Complainant has published Forbes magazine, a bi-monthly business magazine. The Complainant also publishes a number of global editions of its magazine, one of which is Forbes Mexico. The Complainant has obtained trademark registrations for FORBES in multiple jurisdictions, including the following:

- United States trademark registration number 1141299, registered on November 11, 1980, with a claim of first use in commerce on September 15, 1917; and
- Mexican trademark registrations numbers 403137 and 403138, registered on December 27, 1991.

The above trademark registrations remain current. The Complainant also registered the domain name <forbes.com> in 1997 that it uses in connection with its website. According to analytic data presented by the Complainant, its website received over 491 million visits during the period from April 2024 to June 2024. The website includes pages that present the various global editions of Forbes magazine, including Forbes Mexico with a link to the domain name <forbes.com.mx>.

The Respondent is an individual based in Mexico.

The disputed domain name was registered on April 28, 2012. It redirects to the website of “Axis Negocios” (meaning “Axis Business”) at “www.axisnegocios.com”, which provides Mexican business news and information.

The Registrar confirmed that the language of the Registration Agreement is English.

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 is confusingly similar to the Complainant’s FORBES trademark. The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not sponsored by, or affiliated with, the Complainant in any way. The Complainant has not given the Respondent permission to use its trademarks in any manner. The disputed domain name has been registered and is being used in bad faith. The Complainant became aware of the disputed domain name in November 2023.

B. Respondent

After receiving the Notification of Respondent Default, the Respondent sent a brief email communication to the Center asking what this was about and suggesting a telephone call. Otherwise, the Respondent did not reply to the Complainant’s contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that a complainant must prove each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (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.

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

The entirety of the FORBES mark is reproduced within the disputed domain name. Although the disputed domain name also reproduces the country name "Mexico" after the mark, this does not prevent a finding of confusing similarity because the mark remains clearly recognizable within the disputed domain name. The only additional element in the disputed domain name is a generic Top-Level Domain ("gTLD") extension (.com) which may be disregarded in the assessment of confusing similarity for the purposes of the Policy. Accordingly, the disputed domain name is confusingly similar to the FORBES mark for the purposes of the Policy. See [WIPO Overview 3.0](#), sections 1.7, 1.8, and 1.11.

Therefore, 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. See [WIPO Overview 3.0](#), section 2.1.

In the present case, the Respondent uses the disputed domain name, which reproduces the Complainant's FORBES mark and is identical to the name of the Mexican edition of the Complainant's business magazine (i.e., "Forbes Mexico"), to redirect Internet users to a competitor Mexican business news and information website. The Panel finds that this is not a use of the disputed domain name in connection with a bona fide offering of goods and services, nor is it a legitimate noncommercial or fair use of the disputed domain name.

Further, the Registrar has verified that the Respondent's name is "Luis Tinajero". According to the evidence, the Respondent uses the disputed domain name to redirect to the website of "Axis Negocios". Neither name resembles the disputed domain name. Nothing on the record indicates that the Respondent (whether as an individual, business, or other organization) has ever been commonly known by the disputed domain name.

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.

Based on the record, 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. The fourth of these is as follows:

“(iv) by using the [disputed] domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] web site or location.”

The disputed domain name was registered in 2012, years after the registration of the Complainant's FORBES mark, including in Mexico, where the Respondent is based. There is no evidence that the Respondent acquired the registration later in time. In any case, the date of registration of the disputed domain name was almost a century after the Complainant began its use of the FORBES mark in the United States and 15 years after it registered the domain name <forbes.com> that it uses in connection with its global website. The Complainant has acquired a strong reputation in its FORBES mark in the business news sector through longstanding use of the mark in print and online. The Respondent operates in the same sector, publishing business news, from which it is reasonable to conclude that he was aware of the Complainant and its mark at the time of registration of the disputed domain name. The disputed domain name reproduces the FORBES mark as its initial element and combines it with the country name “Mexico”, giving the false impression that it will resolve to the Mexican affiliate of the Complainant. All this gives the Panel reason to find that the Respondent registered the disputed domain name with the Complainant and its FORBES mark in mind.

As regards use, the Respondent uses the disputed domain name, which is identical to the title of the Mexican edition of the Complainant's business magazine (i.e., “Forbes Mexico”), to redirect Internet users to the site of a competitor of that edition. The disputed domain name is clearly intended to attract Internet users searching for the Complainant's Mexican edition and to divert them to the site of a competitor, for commercial gain, within the terms of paragraph 4(b)(iv) of the Policy.

Therefore, 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 <forbesmexico.com> be transferred to the Complainant.

/Matthew Kennedy/

Matthew Kennedy

Sole Panelist

Date: September 25, 2024