

ADMINISTRATIVE PANEL DECISION

Open Society Institute v. Brian Buchanan
Case No. D2024-3649

1. The Parties

The Complainant is Open Society Institute, United States of America (“United States”), represented by Morrison & Foerster, LLP, United States.

The Respondent is Brian Buchanan, United States.

2. The Domain Name and Registrar

The disputed domain name <opensocietyfoundations.org> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 10, 2024. On September 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 12, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 20, 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 September 20, 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 September 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 15, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 16, 2024.

The Center appointed Evan D. Brown as the sole panelist in this matter on October 21, 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 identifies itself as a “philanthropic organization that works to build vibrant and tolerant societies whose governments are accountable and open to the participation of all people.” It owns a number of trademarks that it uses in connection with its activities, including the mark OPEN SOCIETY FOUNDATIONS, for which it enjoys the benefit of registration in the United States (Reg. No. 4,248,358, registered on November 27, 2012).

According to Whois records, the disputed domain name was registered on September 2, 2024. As demonstrated in Annex F to the Complaint, the disputed domain name previously resolved to a website featuring pay-per-click (“PPC”) links. Currently, the Respondent does not appear to use the disputed domain name in connection with any active website.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant’s trademark; that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (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. The Panel finds that all three of these elements have been met in this case.

A. Identical or Confusingly Similar

This first element functions primarily as a standing requirement. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7. 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. *Id.* This element requires the Panel to consider two issues: first, whether the Complainant has rights in a relevant mark; and second, whether the disputed domain name is identical or confusingly similar to that mark.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#). The Complainant has demonstrated its rights in the OPEN SOCIETY FOUNDATIONS mark by providing evidence of its trademark registrations. See [WIPO Overview 3.0](#), section 1.2.1.

This is a typosquatting case. The disputed domain name differs from the Complainant's mark only by one additional letter. The Panel finds the disputed domain name to be confusingly similar to the Complainant's OPEN SOCIETY FOUNDATIONS mark for purposes of the Policy.

Accordingly, the Panel finds that the Complainant has satisfied this first element under the Policy.

B. Rights or Legitimate Interests

The Panel evaluates this element of the Policy by first looking to see whether the Complainant has made a prima facie showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainant makes that showing, the burden of production of demonstrating rights or legitimate interests shifts to the Respondent (with the burden of proof always remaining with the Complainant). See [WIPO Overview 3.0](#), section 2.1; *AXA SA v. Huade Wang*, WIPO Case No. [D2022-1289](#).

On this point, the Complainant asserts that (1) the Respondent has not made use of the disputed domain name in connection with a bona fide offering of goods or services, (2) the Respondent is not commonly known by the disputed domain name, and (3) the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name.

The Panel finds that the Complainant has made the required prima facie showing. The Respondent has not presented evidence to overcome this prima facie showing. And nothing in the record otherwise tilts the balance in the Respondent's favor.

Accordingly, the Panel finds that the Complainant has established this second element under the Policy.

C. Registered and Used in Bad Faith

The Complainant asserts that the Respondent's registration and use of the disputed domain name, which is nearly identical to the Complainant's well-known trademark demonstrates bad faith. This is evident, according to the Complainant, in the Respondent's lack of legitimate connection or authorization to use the OPEN SOCIETY FOUNDATIONS mark, the use of typosquatting (intentional misspelling to mislead users), and the potential harm to the Complainant's business reputation by frustrating consumers trying to reach its legitimate site.

The Respondent has not provided any explanation of any possible good faith registration and use of the disputed domain name. Accordingly, the Panel credits the Complainant's assertions, and finds that the Complainant has established this third element under 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 <opensocietyfoundations.org> be transferred to the Complainant.

/Evan D. Brown/

Evan D. Brown

Sole Panelist

Date: November 5, 2024