

## **ADMINISTRATIVE PANEL DECISION**

Stratos Global Services, LLC v. Borso hoev  
Case No. D2024-4042

### **1. The Parties**

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

Respondent is Borso hoev, United States.

### **2. The Domain Name and Registrar**

The disputed domain name <fxcm.net> (the “Domain Name”) is registered with Spaceship, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 30, 2024. On October 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 3, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the 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 to Complainant on October 3, 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 October 8, 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 October 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 30, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on October 31, 2024.

The Center appointed Robert A. Badgley as the sole panelist in this matter on November 5, 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**

According to the Complaint:

“The Complainant is a retail broker in the foreign exchange (‘Forex’) market. Founded in 1999, the Complainant is a leading provider of online Forex trading, CFD trading and related services. The Complainant’s FXCM services aim to provide global traders with innovative trading tools and high-quality training. The Complainant’s tools include mobile trading, one-click order execution and trading from real-time charts. The Complainant also offers educational courses on Forex trading.”

According to Complainant, and as corroborated with annexes to the Complaint, Complainant has received numerous industry awards, including: Global Forex Awards 2022: Best Forex Trading Platform – Mena and Ultimate Fintech Awards 2022: Broker of the Year.

Complainant has offices in the United States, Europe, the Middle East, and Africa. Complainant also asserts that it has a strong market presence in China, and annexes to the Complaint a number of articles discussing Complainant’s FXCM trading platform in China.

Complainant’s mobile app has been downloaded at the Google Play store more than 500,000 times. Complainant’s main website is accessible via the domain name <fxcm.com>.

Complainant holds registered trademarks for FXCM in several jurisdictions, including United States Patent and Trademark Office Reg. No. 2,620,953, registered on September 17, 2002 in connection with, among other things, “international commodity trading and exchange services,” with a September 1999 date of first use in commerce.

The Domain Name was registered on June 27, 2024. As of August 21, 2024, the Domain Name resolved to a web page offering the Domain Name for sale for USD 4,000.

On August 21, 2024, Complainant’s counsel sent a cease-and-desist letter to the registrant on record of the disputed domain name by then (the “registrant on record”), to which the registrant on record replied on the same day, stating that it chose to register the Domain Name due to its historical value, and was willing to sell the disputed domain name for “\$2,600”. On August 27, Complainant’s counsel replied to the registrant on record indicating while Complainant also hoped to resolve the matter amicably, Complainant was not willing to negotiate nor incur any further costs.

At some point after August 21, 2024, and certainly by September 30, 2024, the Domain Name resolved to a rudimentary website featuring pastel-colored circles and the letters FXCM, followed by the phrase, “Focus on eXperience, Culture & Moments.”

In addition, the evidence shows that the registrant on record made a forum post stating that it wanted to “max it out”, referring to a “.net” registration for which it had received an infringement notice. Further on or about August 27, 2024, the Domain Name was transferred to the current Registrar. Therefore, Complainant asserts that the registrant on record has used fake details to make it appear that the Domain Name had been transferred away.

According to Complainant, Respondent’s Whols registration information includes a nonexistent street address.

Respondent has not disputed any of the foregoing allegations or evidence.

## **5. Parties' Contentions**

### **A. Complainant**

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

### **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the 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. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.7.

The Panel finds that Complainant has rights in the mark FXCM through registration and use demonstrated in the record. The Panel also finds that the Domain Name is identical to that mark.

Complainant has established Policy paragraph 4(a)(i).

### **B. Rights or Legitimate Interests**

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in connection with the Domain Name. Respondent has not come forward in response to the Complaint in this proceeding, to deny any of

the plausible allegations or dispute any of the evidence presented by Complainant. Nor has Respondent tried to articulate, and support with evidence, some bona fide basis for registering the Domain Name.

Given the fact that Complainant's mark has been in use for at least 25 years and appears from the record to enjoy a fair amount of renown, and the Domain Name is identical to this mark, it appears from this undisputed record more likely than not that Respondent's motive for registering the Domain Name was to capitalize off the mark's renown for commercial gain.

The Panel further notes that the registrant on record replied to Complainant's cease-and-desist letter, offering the disputed domain name for sale for "\$2,600", and when Complainant refused to pay for the disputed domain name, the registrant on record made a forum post, referring to a ".net" registration for which it had received an infringement notice. After that, the Domain Name was transferred to the current Registrar with Respondent's information which appears to have used a nonexistent street address, and the content of the website at the Domain Name was also changed from a page offering the Domain Name for sale to a page featuring pastel-colored circles and the letters FXCM, followed by the phrase, "Focus on eXperience, Culture & Moments." Apart from the phrase which attempts to explain what FXCM stands for, the website does not appear to have any substantive content.

Considering the above, the Panel finds that Respondent lacks rights or legitimate interests vis-à-vis the Domain Name.

Complainant has established Policy paragraph 4(a)(ii).

### **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy provides that the following circumstances, "in particular but without limitation," are evidence of the registration and use of the Domain Name in "bad faith":

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes that Respondent registered and used the Domain Name in bad faith under the Policy. The Panel incorporates its discussion above in the "Rights or Legitimate Interests" section. On this undisputed record, the Panel finds that Respondent more likely had Complainant's mark in mind when registering the Domain Name. The Panel also finds that the previous posting the Domain Name for sale for USD 4,000 runs afoul of the above-quoted Policy paragraph 4(b)(i). After Complainant's cease-and-desist letter and its refusal to purchase the Domain Name from the registrant on record, the content of the website at the Domain Name was changed to a page featuring pastel-colored circles and the letters FXCM, followed by the phrase, "Focus on eXperience, Culture & Moments." In the absence of a response, the lack of substantive content on the website, and also noting the reputation of Complainant's mark, the composition of

Domain Name, the Panel finds on balance that Respondent's attempt to legitimate its choice of "fxcm" in the Domain Name through the phrase on the website does not change Respondent's bad faith.

Complainant has established Policy paragraph 4(a)(iii).

## **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 Domain Name <fxcm.net> be transferred to Complainant.

*/Robert A. Badgley/*

**Robert A. Badgley**

Sole Panelist

Date: November 19, 2024