

ADMINISTRATIVE PANEL DECISION

FIL Limited v. Limon Masud
Case No. D2024-4129

1. The Parties

The Complainant is FIL Limited, Bermuda, United Kingdom, represented by Maucher Jenkins, United Kingdom.

The Respondent is Limon Masud, Bangladesh.

2. The Domain Name and Registrar

The disputed domain name <fidelity-international.pro> is registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 8, 2024. On the same day, the Center transmitted by email to the Registrar a request for a registrar verification in connection with the disputed domain name. On October 8, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 9, 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 amended Complaint on October 9, 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 the Respondent of the Complaint, and the proceedings commenced on October 11, 2024. In accordance with the Rules, paragraph 5, the due date for the Response was October 31, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 1, 2024.

The Center appointed Ada L. Redondo Aguilera as the sole panelist in this matter on November 7, 2024. The Panel finds that it has been 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 is a multinational financial services corporation based in Bermuda, United Kingdom and was established over 50 years ago.

The Complainant is one of the largest and best-known investment fund managers and asset management companies in the world. The Complainant, either itself or through its subsidiaries, offers a full range of financial investment and asset management services throughout the world to private and corporate investors, including cash and equity ISA options, investment funds, mutual funds, investment portfolio consolidation among other services.

The Complainant is the owner of the following trademarks:

- a) European Union registration no. 003844925 for FIDELITY, in Classes 16 and 36, filed on May 21, 2004 and registered on September 21, 2005;
- b) European Union registration no. 004579009 for FIDELITY INTERNATIONAL, in Classes 16, 35, and 36, filed on August 4, 2005 and registered on July 7, 2006;
- c) United Kingdom registration no. UK00903844925 for FIDELITY, in Classes 16 and 36, filed on May 21, 2004 and registered on September 21, 2005; and
- d) United Kingdom registration no. UK00914770598 for FIDELITY INTERNATIONAL, in Classes 35 and 36, filed on November 5, 2015 and registered on March 22, 2016.

The Complainant and its subsidiaries and related companies have owned and/or used numerous Fidelity-composite domain names to link to websites promoting services provided under the FIDELITY marks, including:

- a) <fidelity.co.uk>, registered on or before August 1996;
- b) <fidelityinternational.com>, registered on May 31, 2001;
- c) <fidelityinvestment.com>, registered on January 21, 1998 and <fidelityinvestments.com>, registered on May 16, 2000, both of which link to websites of the Complainant's United States of America sister company FMR LLC.

The disputed domain name was registered on September 24, 2024.

At the time of the present decision, the disputed domain name does not resolve to an active website. Notwithstanding, according to the Complainant's evidence, the website that was displayed at the disputed domain name has been reported by Microsoft as a potential phishing site.

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 identical to its trademarks since the disputed domain name incorporates in its entirety the Complainant's trademarks, FIDELITY and FIDELITY INTERNATIONAL (the "FIDELITY Marks"), only by adding a hyphen "-" and a generic Top-Level Domain ("gTLD") ".pro".

The Complainant claims that the Respondent lacks any rights or legitimate interests with respect to the disputed domain name. The Complainant asserts that there is no fair or legitimate use of the disputed domain name.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant, states that the website displayed at the disputed domain name has been reported of phishing scams site by Microsoft due to its involvement in phishing activities.

The Complainant requests that the disputed domain name be transferred to it.

B. Respondent

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

6. Discussion and Findings

In order to succeed in its Complaint, the Complainant must demonstrate that all of the elements enumerated 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 with respect to 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. 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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name incorporates the entirety of the Complainant's FIDELITY Marks. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. In this case, the only difference in the disputed domain name is the hyphen "-" which does not prevent a finding of confusing similarity.

Indeed, the Panel finds that the gTLD in the present case ".pro", may typically be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark, as it is, in this case, a technical requirement of registration. [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.

Although the overall burden of proof in UDRP proceedings lies with the complainant, panels have recognized that proving a respondent's lacks of rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often exclusively within the knowledge or control of the respondent. In such cases, 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 provide 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.

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.

According to the Complaint, the Complainant has not authorized or granted the Respondent to use its FIDELITY Marks. Furthermore, the Respondent is not sponsored by or affiliated with the Complainant in any way. The Respondent is not commonly known by the disputed domain name.

The Respondent is not using the disputed domain name or a name corresponding to it in connection with a bona fide offering of goods or services. Furthermore, there is no evidence that before any notice to the Respondent of the dispute, the Respondent had ever made any use of, or demonstrated preparations to use, the disputed domain name or a name corresponding to it in connection with a bona fide offering of goods or services. Nor is the Respondent making any legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain misleadingly to divert consumers or to tarnish the Complainant's FIDELITY Marks.

Rather, the evidence shows that the disputed domain name has been linked to a potential phishing site, due to the fact that the website that used to be displayed at the disputed domain name has been reported to Microsoft as unsafe for containing phishing threats. If the website at the disputed domain name was indeed in connection with fraudulent activities such as phishing, panels have established that the use of a domain name for illegitimate activity or illegal activity including phishing or impersonation/passing off, or other types of fraud 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.

In the present case, the Panel notes that the disputed domain name is confusingly similar with the Complainant's trademark, which was registered prior to the disputed domain name. Given the well-established reputation of the Complainant's FIDELITY Marks in respect of financial services and its international activities, it is unlike that the Respondent selected the disputed domain name by chance. Therefore, the Panel finds that it is inconceivable that the Respondent was unaware of the existence of the Complainant, its trademark and the Complainant's domain names at the time of registering the disputed domain name.

Paragraph 4(b) of the Policy sets out a non-exhaustive list 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, the Panel has reviewed the evidence presented by the Complainant where the disputed domain name has been reported by Microsoft as a potential phishing site. If the website at the disputed domain name was indeed in connection with fraudulent activities such as phishing, it has been determined by panels that the use of a domain name for illegitimate activity or illegal activity including phishing, impersonation/passing off, or other types of fraud constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

At the time of this decision, the disputed domain name is inactive. Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, and the composition of the disputed domain name targeting the Complainant and finds that in the circumstances of this case the current passive holding of the disputed domain name also does not prevent a finding of bad faith under the Policy.

Having reviewed the record, the Panel has determined that the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

For all the foregoing reasons, the Panel finds that the disputed domain name was registered and has been used in bad faith.

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 <fidelity-international.pro> be transferred to the Complainant.

/Ada L. Redondo Aguilera/

Ada L. Redondo Aguilera

Sole Panelist

Date: November 21, 2024