

ADMINISTRATIVE PANEL DECISION

Fundbox, Inc. and Fundbox Ltd v. Privacy Service Provided by Withheld for Privacy ehf / Sussie Mannersam
Case No. DIO2022-0035

1. The Parties

The Complainant is Fundbox, Inc., United States of America (“United States”) and Fundbox Ltd, Israel, represented by Sheppard, Mullin, Richter & Hampton, United States.

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Sussie Mannersam, Germany.

2. The Domain Name and Registrar

The disputed domain name <fundbox.io> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 25, 2022. On July 26, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 26, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on August 1, 2022 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 August 2, 2022.

The Center verified that the Complaint, together with the amended Complaint, satisfied the formal requirements of the .IO Domain Name Dispute Resolution Policy (the “Policy”), the Rules for .IO Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for .IO 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 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 24, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 30, 2022.

The Center appointed Ian Lowe as the sole panelist in this matter on September 5, 2022. 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 is a financial services platform that since 2013 has offered credit and payment solutions to small and medium sized businesses. Its primary offering is a revolving line of credit where companies can apply for loans online and get a decision within minutes. To establish a Fundbox account, users are required to link either their accounting platform or their business bank account with Fundbox. Since 2013, the Complainant has provided over USD 3 billion in capital and connected to over 500,000 businesses.

The Complainant is the proprietor of several United States registered trademarks comprising FUNDBOX, including trademark number 4,871,222 FUNDBOX registered on December 15, 2015, and trademark number 6,220,269 "Fundbox" and design (the "Complainant's Device Mark") registered on December 15, 2020.

The Complainant's primary website is at "www.fundbox.com".

The Domain Name was registered on December 30, 2021. It currently resolves to a webpage stating that the account has been suspended. At the time of preparation of the Complaint, it resolved to a website (the "Respondent Website") that was a substantial copy of the Complainant's website, prominently featuring both the Complainant's FUNDBOX mark and the Complainant's Device Mark. The Respondent Website comprised identical get-up and incorporated identical text, including in particular the registration page where users were invited to register and apply for financing or to log in with existing registration details.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is identical to its FUNDBOX trademark (the "Mark"), that the Respondent has no rights or legitimate interests in respect of the Domain Name, and that the Respondent registered or is using the Domain Name in bad faith within the meaning of the Policy.

B. Respondent

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

6. Discussion and Findings

For this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered or is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has uncontested rights in the Mark, both by virtue of its trademark registrations and as a result of the substantial goodwill and reputation acquired through its widespread use of the Mark over a number of years. Ignoring the country code Top-Level Domain (“ccTLD”) “.io”, the Domain Name comprises the entirety of the Mark. Accordingly, the Panel finds that the Domain Name is identical to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has made out a strong *prima facie* case that the Respondent could have no rights or legitimate interests in respect of the Domain Name. The Respondent is not authorized by the Complainant to use the Domain Name. The Respondent has not used the Domain Name in connection with a *bona fide* offering of goods or services, but rather has used it for a website comprising a substantial copy of the Complainant’s website, featuring the Mark and the Complainant’s Device Mark, soliciting users to open an account or to input existing log in details. The Panel is in no doubt that the Respondent has done so with a view to confusing Internet users into believing that the Respondent’s Website was operated by or authorised by the Complainant and to phishing for personal information for fraudulent purposes. Such activity cannot possibly give rise to rights or legitimate interests.

The Respondent has chosen not to respond to the Complaint or to take any steps to counter the *prima facie* case established by the Complainant. In the circumstances, the Panel finds that the Respondent does not have any rights or legitimate interests in respect of the Domain Name.

C. Registered or Used in Bad Faith

In light of the use of the Complainant’s Mark and Device Mark and the nature of the Respondent’s website, the Panel is in no doubt that the Respondent had the Complainant and its rights in the Mark in mind when it registered the Domain Name. The Panel considers that the Respondent has registered and used the Domain Name to deceive Internet users into believing that the Domain Name is operated or authorized by the Complainant, and to attract Internet users by creating a likelihood of confusion with the Mark, with a view to phishing for personal information or other fraudulent purposes, no doubt for commercial gain. The Panel considers that this amounts to paradigm bad faith registration and use. The fact that the Domain Name currently resolves to a webpage stating that the account has been suspended does not prevent a finding of bad faith.

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 <fundbox.io> be transferred to the Complainant.

/Ilan Lowe/

Ilan Lowe

Sole Panelist

Date: September 14, 2022