

ADMINISTRATIVE PANEL DECISION

FalconX Limited v. Lissanro Rayen
Case No. DIO2024-0015

1. The Parties

The Complainant is FalconX Limited, Malta, represented by Accent Law Group, Inc., United States of America ("U.S.").

The Respondent is Lissanro Rayen, Russian Federation, self-represented.

2. The Domain Name and Registrar

The disputed domain name <falxdex.io> (the "Disputed 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 May 31, 2024. On June 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On June 5, 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 (Privacy Service Provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 6, 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 June 10, 2024. The Respondent sent several emails to the Center on June 6, and June 11, 2024.

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 June 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 2, 2024. The Response was filed with the Center on June 15, 2024. The Complainant and the Respondent submitted supplemental filings on June 19, and June 21, 2024 respectively.

The Center appointed Nick J. Gardner as the sole panelist in this matter on June 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 Respondent does not appear to challenge the Complainant's description of its business and accordingly the Panel accepts the following facts as true. Founded in 2018, the Complainant is a digital asset brokerage offering liquidity and tailored financial services. The Complainant's services which are offered under the FALCONX Mark provide financial market participants with facilities for trading in cryptocurrency spot and derivative markets. Further, the Complainant provides liquidity to the digital asset markets by buying and selling cryptocurrencies, offering derivatives, and structuring loans. As of year-end 2023, the Complainant has executed over USD 1 trillion in trading volume and has originated over USD 100 billion in loans. The Complainant is the first CFTC¹-registered cryptocurrency focused swap dealer and continues to operate at the forefront of the digital assets markets. The primary website and email address for the Complainant use the domain name <falconx.io>.

The Complainant is the proprietor of various registered trademarks for FALCONX – for example International registration No. 1730278 dated September 28, 2022. These trademarks are referred to as the “FALCONX trademark” in this decision.

The Disputed Domain Name was registered on April 21, 2024. It does not currently resolve to an active website. The filed evidence shows that it previously resolved to a website (the “Respondent's Website”) which is prominently branded “FalconX” and where the landing page contained the following text: “Welcome to FalconX. The next-generation DEX built on the high-performance Solana blockchain. At the heart of the FalconXdex ecosystem lies the native FalconX (FALX) token, a crucial component that fuels the platform. With a fixed total supply of ten billion FALX tokens, the FALX token aims to deliver sustainable value and growth for its holders”. The filed evidence shows there was substantial further content on the Respondent's Website virtually all of which refers to FalconX – for example a “FalconX Roadmap” listing various targets or events for different quarters in 2024.

The Complainant produces evidence to show it has engaged in efforts to takedown news stories promoting the Respondent's FalconX (FALX) token and has posted customer warnings regarding the nature of the Respondent's activities and his lack of any affiliation with the Complainant. The Complainant has also filed a complaint with the U.S. Federal Bureau of Investigation's (FBI) Internet Crime Complaint Center.

5. Parties' Contentions

A. Complainant

The Complainant's contentions are set out in detail and cite a large number of previous Uniform Domain Name Dispute Resolution Policy (“UDRP”) decisions. The Complainant's case can be summarized as follows.

The Disputed Domain Name is confusingly similar to the FALCONX Trademark. It says it comprises a contraction of that trademark (“falx”) together with the term “dex” which is a commonly used term referring to a decentralized exchange. It produces evidence that this is a term referring to a peer-to-peer marketplace where transactions occur directly between crypto traders.

The Complainant says that the Respondent has no rights or legitimate interests in the term “Falconx” or “falxdex”.

In consequence the Complainant alleges that the Disputed Domain Name was registered and is being used in bad faith. The Complainant says the deceptive nature of the Respondent's Website is clear evidence of bad faith. It says that by using the Disputed Domain Name, the Respondent intentionally attempted to attract for commercial gain, Internet users to the Respondent's Website, 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 of a product or service on the Respondent's Website.

B. Respondent

The Response is repetitive but in essence comprises a denial that either the Disputed Domain Name or the Respondent's Website has anything to do with the Complainant or its business. The principal points the Respondent makes are as follows.

He denies the Disputed Domain Name is confusingly similar to the Complainant's trademark. He says as follows "There is no confusing similarity between FalxDex (falxdex.io) and FALCONX (falconx.io) – no reasonable amount of typos can get the user to non-intended website".

He says the Disputed Domain Name was independently derived, and says as follows: "'X Dex' part comes from our previous brand 'SolXdex', before the project was rebranded to FalxDex, which is highly unique name not used by anyone except our project".

He denies that the Respondent's Website seeks to mislead customers and says as follows: "There was no such purpose, and cannot be – there are no similarity in website design, no similarity in the domain name, no similarity in website's content". He explains the references to FalconX on the Respondent's Website as follows: "As of presence of a word 'FalconX' at some point in the past on our home page (currently available at falxdex.com), it was temporary code name of the project between transition from SolXdex to FalxDex, and the choice of FalxDex as the final name is very clearly reflected in the domain. Any resemblance to Complainant's trademark was purely coincidental [sic] because it was a combination of a common word + X from the middle of our previous brand".

The Response continues to make essentially the same points in different ways. In summary the Respondent protests his innocence, complains that the Complainant did not approach him before filing the Complaint, and asks that the Complaint be rejected. He says this "Also, I never heard of Complainant's trademark before, and from reading this complaint, is the first time I see it".

6. Discussion and Findings

6.1 Preliminary Issue - Nature of the .IO Policy

So far as the .IO Policy is concerned, the Panel notes that it is substantially similar to (though not identical to) the UDRP as adopted by the Internet Corporation for Assigned Names and Numbers ("ICANN"). The Panel will where appropriate apply principles that have been established in relation to the UDRP in determining this dispute, including those set out in WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

6.2 Procedural Matters – Supplemental Filings

The Panel declines to admit the Complainant's supplemental filing. In large measure it seems to the Panel to be a commentary on the credibility of the Response which the Panel is able to analyse in any event.

The Panel declines to admit the Respondent's supplemental filing. In large measure it seems to the Panel to repeat points already made in the Response.

In any event admitting either or both of the supplemental filings would not have affected the outcome of this decision.

6.3 Substantive Matters

To succeed, in accordance with paragraph 4(a) of the Policy, the Complainant must satisfy the Panel that:

- (i) the Disputed Domain Name is identical with 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;
- (iii) the Disputed Domain Name has been registered or is being used in bad faith.

A. Identical or Confusingly Similar

The Panel considers the Disputed Domain Name to be confusingly similar to the Complainant's trademark FALCONX. It combines a contraction of that trademark ("falx") with a term which the Complainant's evidence established is a commonly used abbreviation for a decentralised exchange. Confusing similarity does not exclusively depend upon the extent of the typographical difference between the Disputed Domain Name and the trademark which is what the Respondent seeks to argue. It is a question in this case at least of assessing the overall impression created by the Disputed Domain Name and comparing it with the trademark in question. The Disputed Domain Name includes the first syllable of the Complainant's trademark and the final letter but omits the second syllable. See in this regard *LittleThings, Inc. v. East Softwear*, WIPO Case No. [D2016-2254](#) where the domain name at issue was <litthings.com> and the complainant's trademark was for the words LITTLETHINGS.COM and LITTLETHINGS. The panel stated as follows "The disputed domain name incorporates the dominant part of the Complainant's registered LITTLETHINGS.COM trademark, with the absence of three letters 'tle'. Visually and aurally, the disputed domain name is very similar to the Complainant's LITTLETHINGS.COM trademark, especially when the gTLD identifier '.com' is taken into consideration (as is appropriate to do in this case). It is significant that the missing letters ('tle') are not at the beginning of the disputed domain name, and form a separate, non-stressed, syllable of the disputed domain name as it would be pronounced in English, meaning that the first letters and the stressed syllable of the disputed domain name ('lit') remains together with the dominant ending word and syllable 'things'. In the Panel's view, the string 'litthings' is strongly suggestive of the phrase 'little things'. In the absence of any argument by the Respondent to the contrary, the Panel is comfortable in concluding that the deletion of letters 'tle' does not lessen the confusing similarity between the disputed domain name and the Complainant's LITTLETHINGS.COM trademark. Accordingly, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights". The Panel considers that exactly the same approach applies in the current case and "falx" remains confusingly similar to FALCONX. The addition of the term "dex" meaning a decentralised exchange does not alter that analysis. As such the Panel concludes that the Disputed Domain Name is deliberately intended to convey the meaning that it relates to a decentralised exchange concerning FALCONX tokens and as such is confusingly similar to the Complainant's trademark. Were there any doubt about this the content of the Respondent's Website (discussed below) clearly shows an intention to deceive. See [WIPO Overview 3.0](#), section 1.15.

It is also well established that the country code Top-Level Domain ("ccTLD"), in this case ".io", is not generally taken into account for the purpose of determining whether a domain name is identical or confusingly similar – see [WIPO Overview 3.0](#), section 1.11.1. The Panel however agrees with the Complainant that the choice of .io is unlikely to be coincidental given it is the same ccTLD that the Complainant uses for the domain name linked to its principal website namely <falconx.io>.

Accordingly the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's trademark and hence the first condition of paragraph 4(a) of the Policy has been fulfilled.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a domain name:

- (i) before any notice to the respondent of the dispute, 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) the respondent has been commonly known by the domain name, even if the respondent has acquired no trade mark or service mark rights; or
- (iii) the respondent is 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 Complainant has not authorised, licensed, or permitted the Respondent to register or use the Disputed Domain Name or to use the FALCONX trademark. The Complainant has prior rights in the FALCONX trademark which precede the Respondents' registration of the Disputed Domain Name. The Complainant has therefore established a prima facie case that the Respondent does not have any rights or legitimate interests in the Disputed Domain Name and thereby the burden of production shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the Disputed Domain Name (see for example *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

The Respondent in effect says that (i) above applies as the Respondent's Website reflects a bona fide business that has nothing to do with the Complainant and that he had no knowledge of the Complainant before receiving the Complaint. Looking at the evidence as a whole the Panel on the balance of probabilities does not accept the explanation offered by the Respondent. The Panel is conscious that proceedings under the Policy are of a limited and restricted nature, do not involve oral hearings, discovery, or cross examination, and hence are understood to be applicable to clear cut cases, and it is not usually appropriate to decide disputed questions of fact or matters of truth or falsehood. That does not however mean the Panel cannot reach a conclusion as to the veracity of a case that is being advanced where the only evidence that is provided is in the form of conclusory statements that are inherently not credible, and which are not supported by relevant corroborative or third party evidence. The Panel considers this to be such a case. The Complainant has placed in evidence a substantial amount of content from the Respondent's Website all of which in the Panel's view shows that the Respondent's Website promoted itself as being a website operated by the Complainant. The Respondent has not disputed that this material originates from the Respondent's Website but instead seeks to explain it away by conclusory statements that lack credibility when viewed against the evidence. In short the entire content of the Respondent's Website comprises an introduction to FalconX and the FALX token – it cannot conceivably have been created independently of the Complainant and its business. The Respondent's case is simply not credible and the Panel concludes that on the balance of probabilities the Respondent's claims to have no knowledge of the Complainant and that he was not seeking to confuse customers contradict the plain evidence put forward by the Complainant.

Accordingly the Panel finds that the Respondent has failed to produce any credible evidence to establish any rights or legitimate interests in the Disputed Domain Name. The Panel therefore finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name and the second condition of paragraph 4(a) of the Policy has been fulfilled.

C. Registered or Used in Bad Faith

In the present circumstances the fact that the Disputed Domain Name was linked to the Respondent's Website which purported to be a website operated by the Complainant lead the Panel to conclude the registration and use were in bad faith.

“FalconX” has no other meaning so far as the Panel is aware save in relation to the Complainant. The Panel does not consider it likely that the Respondent chose to include a contraction of this term in the Disputed Domain Name for any other reason apart from its connection to the Complainant. Use of the term “FalconX” within the Respondent’s Website is clearly not coincidental but intended to give the impression the Respondent’s Website was operated by the Complainant. The Panel also agrees with the Complainant that the Respondent’s choice of the ccTLD “.io” is unlikely to be coincidental given it is the same ccTLD that the Complainant uses for the domain name <falconx.io> linked to its principal website. The Panel concludes that the Respondent chose to register a domain name comprising an abbreviation of the Complainant’s trademark combined with the descriptive abbreviation “dex” meaning a decentralized exchange. He did so in order to facilitate a scheme where the Respondent’s Website purported to be that of the Complainant.

Under paragraph 4(b) of the Policy a non-exhaustive list of factors evidencing registration and use in bad faith comprises:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have 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 you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.”

In the present circumstances the Panel agrees with the Complainant that factor (iv) applies as the Respondent was seeking to achieve commercial gain by impersonating the Complainant. The Respondent’s motive appears to be the promotion of his own unauthorized FALX token which the Panel infers is being done for commercial gain. For reasons discussed above the Panel does not regard the Respondent’s supposed explanation for his conduct as being credible.

Accordingly, the Panel finds that the Disputed Domain Name has been registered and is being used in bad faith and the third condition of paragraph 4(a) of the Policy has been fulfilled.

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 <falxdex.io> be transferred to the Complainant.

/Nick J. Gardner/

Nick J. Gardner

Sole Panelist

Date: July 5, 2024