

ADMINISTRATIVE PANEL DECISION

Finch Paper LLC v. Michelle Tricia
Case No. D2023-3411

1. The Parties

Complainant is Finch Paper LLC, United States of America (“U.S.”), represented by Soteria LLC, U.S.

Respondent is Michelle Tricia, U.S.

2. The Domain Name and Registrar

The disputed domain name <fiinchpaper.com> (the “Domain Name”) 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 August 10, 2023. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. Also on August 10, 2023, 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”, and contact information in the Complaint.

The Center sent an email communication to Complainant on August 14, 2023 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 August 14, 2023.

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 August 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 7, 2023. Aside from three informal communications, Respondent did not submit any formal response. Accordingly, the Center notified the Commencement of Panel Appointment Process on September 11, 2023.

The Center appointed Harrie R. Samaras as the sole panelist in this matter on September 21, 2023. 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

Complainant Finch Paper LLC is a privately held pulp and paper manufacturer in North America that services numerous markets, including commercial printing and direct mail, book publishing, financial printing, transactional printing, envelope and forms converting, labels and packaging, and specialty papers. It owns U.S. Trademark Registration No. 850,617 (registered June 11, 1968) for the FINCH PAPER Mark (or the “Mark”). It also owns the domain name <finchpaper.com>.

The Domain Name was registered July 24, 2023. It consists of the FINCH PAPER Mark owned by Complainant, with the addition of an extra letter “i” (“fiinch” instead of “finch”). The Domain Name resolves to a webpage stating in pertinent part: “This site can’t be reached.” Meanwhile, two days after Respondent registered the Domain Name, Respondent used an email akin to the Domain Name (*i.e.*, with the additional letter “i” – [name of sender@fiinchpaper.com]) to contact one of Complainant’s vendors. The record evidence shows that an email was purportedly from an “accounts receivable coordinator” at Complainant. It states in pertinent part: “We are currently undergoing an audit process which has resulted in delays for reconciling accounts on all aging receivables. Kindly let me know if we can anticipate payments for the due invoices this week. It would be greatly appreciated if you could look into this and share your feedback with me. If you have any further questions, please don’t hesitate to ask.”

5. Parties’ Contentions

A. Complainant

The Domain Name consists of the entirety of the FINCH PAPER Mark. It is confusingly similar to the Mark and Complainant’s domain name <finchpaper.com> with an additional letter “i” in the word “Finch”.

Respondent is neither affiliated nor authorized by Complainant to register or use the FINCH PAPER Mark. In addition, Respondent has neither used the Domain Name nor provided any proof of preparations for a *bona fide* offering of goods or services as the website is not currently hosting any web content. The Whois record shows that Respondent is “Michelle Tricia”, not Complainant. In this regard, there is no evidence indicating that Respondent has been commonly known by the Domain Name and she does not own rights to the FINCH PAPER Mark. There is also no evidence that Respondent intends to use the Domain Name for a legitimate business.

The FINCH PAPER Mark is a unique, dictionary keyword used by Complainant in conjunction with its business. The Domain Name is confusingly similar to Complainant’s domain name (<finchpaper.com>). This strongly suggests that Respondent was aware of Complainant and the Mark when registering the Domain Name. It is highly unlikely that the registration of the Domain Name was coincidental.

The Domain Name is malicious and has been harmful to the Mark as it was used in a business email fraud scam against one of Complainant’s vendors. Respondent attempted to contact the vendor concerning an “open invoice”, and requested that the vendor “reconcile the aging accounts receivable” and “anticipated payments for the due invoices” within “one week”. Use of the Domain Name poses a significant and valid security threat to Complainant because at any time the similarity of the Domain Name with Complainant’s domain name could be exploited for additional business email fraud, phishing attacks, or launch scam campaigns against Complainant’s employees, clients, and vendors.

B. Respondent

Respondent did not reply to Complainant's contentions. However, Respondent sent the following informal communications: "Hello, Please what's this all about?"; "So what do you want me to do?"; and "What do they want?".

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel finds that Complainant has rights in the FINCH PAPER Mark by virtue of its U.S. trademark registration cited above.

The Domain Name is confusingly similar to Complainant's FINCH PAPER Mark because: Complainant's Mark is clearly recognizable within the Domain Name; the Top-Level Domain is generally not determinative in establishing whether the Domain Name is confusingly similar to a complainant's mark; and adding an additional letter "i" to the Mark does not prevent a finding of confusing similarity with Complainant's Mark. See, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.9 ("A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element").

For the foregoing reasons, the Panel concludes that Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Complainant asserts that Respondent is neither affiliated with Complainant nor authorized by Complainant to register or use the FINCH PAPER Mark. Complainant points out that the Whois record shows that Respondent is "Michelle Tricia", not Complainant, and there is no evidence indicating that Respondent has been commonly known by the Domain Name or owns rights to the FINCH PAPER Mark. Complainant notes that the FINCH PAPER Mark is a unique word mark that it alone owns.

In addition, Complainant maintains that Respondent has neither used the Domain Name nor provided any proof of preparations to use it for a *bona fide* offering of goods or services as the website is not currently hosting any web content. Also, Complainant argues there is no evidence that Respondent intends to use the Domain Name for a legitimate business insofar as Respondent has been using the Domain Name to send fraudulent and phishing emails.

Where, as here, Complainant has raised a *prima facie* presumption of Respondent's lack of any rights or legitimate interests in the Domain Name, and Respondent has failed to rebut that presumption, the Panel is satisfied that Complainant has carried its burden of proving that Respondent has no rights or legitimate interests in the Domain Name within the meaning of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

At the time Respondent registered the Domain Name on July 24, 2023, Complainant had been using the FINCH PAPER Mark at least since 1968 in conjunction with its business – over 50 years before Respondent registered the Domain Name. Respondent registered a Domain Name that is confusingly similar to Complainant's registered Mark, merely adding an extra letter "i" to a trademark that Respondent has no rights or legitimate interests in (also the Domain Name is nearly identical to Complainant's domain name <finchpaper.com>). Furthermore, just a few days after Respondent registered the Domain Name, Respondent used the Domain Name to send fraudulent, and phishing emails to appear as Complainant's

accounts receivable department. Given these facts, it is evident that Respondent was aware of Complainant and its FINCH PAPER Mark when registering the Domain Name.

Respondent has also been making a bad-faith use of the Domain Name. There is no plausible reason for Respondent's selection of a Domain Name that is confusingly similar to the FINCH PAPER Mark, in which Respondent has no rights or legitimate interests, other than as a deliberate attempt to profit unfairly from confusion with the Mark. See, *Intel Corporation v. The Pentium Group*, WIPO Case No. [D2009-0273](#). Furthermore, the evidence in the record provided by Complainant shows that Respondent has been using the Mark for the above-described business email fraud scam against one of Complainant's vendors which it appears Respondent has benefitted from or could have benefitted from financially. Despite the fact that the Domain Name has yet to resolve to an active website, Respondent's use of the Domain Name as an email address in the fraudulent scheme supports a finding of bad faith use within the meaning of the Policy. Use of the Domain Name poses a significant and valid security threat to Complainant because at any time Respondent could further exploit the Domain Name for additional fraudulent conduct by email, on the Internet, or otherwise. See *Sandbox Studio, LLC v. Privacy service provided by Withheld for Privacy ehf / Daniel Matthew, Deckers Brands*, WIPO Case No. [D2021-2654](#).

For the foregoing reasons, the Panel concludes that Complainant has satisfied paragraph 4(a)(iii) 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 Domain Name <fiinchpaper.com> be transferred to Complainant.

/Harrie R. Samaras/

Harrie R. Samaras

Sole Panelist

Date: October 4, 2023