

ADMINISTRATIVE PANEL DECISION

Wikimedia Foundation, Inc. v. Kevin Lesnar, Infinity Project Manager
Case No. D2024-0350

1. The Parties

Complainant is Wikimedia Foundation, Inc., United States of America, represented by Zacco Sweden AB, Sweden.

Respondent is Kevin Lesnar, Infinity Project Manager, United States of America.

2. The Domain Name and Registrar

The disputed domain name <wikipediadrafts.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 26, 2024. On January 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 26, 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 Complainant on January 30, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on February 1, 2024.

The Center verified that the Complaint together with the amendment to the 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 February 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 25, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on February 27, 2024.

The Center appointed Timothy D. Casey as the sole panelist in this matter on March 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

Complainant is a nonprofit charitable organization focused on the growth, development, and distribution of free, multilingual, educational content. Complainant was founded in 2003 and currently manages 14 free knowledge projects built and maintained by many thousands of volunteers, including Wikipedia (an online encyclopedia), Wikimedia Commons (a shared media repository), and Wikinews (a new source). Complainant also oversees a network of organizations around the world, including 38 chapters, 2 thematic organizations, and 146 user groups in over 38 countries. Complainant operates a number of domain names that incorporate “wiki” and “pedi” including <wikipedia.org> and <wikipediaarticle.org>.

Complainant has registrations for numerous trademarks around the world for “wikipedia” (the “WIKIPEDIA Marks”), including the following:

Mark	Jurisdiction	Class(es)	Registration No.	Registration Date
WIKIPEDIA	United States of America	41	3040722	January 10, 2006
WIKIPEDIA	United States of America	9, 35, 38, 41, 42	3505429	September 23, 2008
WIKIPEDIA	United States of America	16, 18, 21, 25	3773952	April 13, 2010

Complainant cited a number of prior UDRP panel decisions finding the WIKIPEDIA Marks to be distinctive and well known (e.g., *Wikimedia Foundation, Inc. v. Salamuddin Shaikh*, WIPO Case No. [D2020-1456](#), *Wikimedia Foundation, Inc. v. Milen Radumilo*, WIPO Case No. [D2019-0009](#)).

The disputed domain name was registered on October 15, 2021. At the time of filing the Complaint, the disputed domain name resolved to a website displaying a log in screen soliciting an email address and password without further explanation. The disputed domain name previously resolved to three different websites, and Complainant provided evidence indicating that the disputed domain name was previously used to falsely suggest that Respondent had special access to features of Wikipedia, features which do not actually exist, and was engaged in a scheme intended to deceive Wikipedia community members and users into paying for the creation of articles falsely described to be destined for Wikipedia, that were actually hosted on one of Respondent’s prior websites.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, Complainant contends that the disputed domain name incorporates the WIKIPEDIA Marks in their entirety, which renders the disputed domain name confusingly similar regardless of the incorporation of the descriptive term “drafts.” Complainant further contends that the addition of the descriptive term increases rather than mitigates the potential risk of confusion.

Complainant contends Respondent has no rights or legitimate interest in the disputed domain name. Respondent is not a licensee or otherwise affiliated with Complainant. Complainant did not authorize, condone, or consent to Respondent's registration of the disputed domain name. Respondent is not commonly known by the disputed domain name and has not made any preparation to use the disputed domain name in connection with a bona fide offering of goods or services or used the disputed domain name for any legitimated noncommercial or fair use purpose. Respondent also registered the disputed domain name through a privacy service to hide its identity.

Complainant contends that Respondent registered and has used the disputed domain name in bad faith. This is evidenced by Respondent's current and past use of the disputed domain name and the fact that the WIKIPEDIA Marks are well known and distinctive. Respondent's current and past use falsely suggesting an association with Complainant and engaging in a scheme to deceive users into paying for articles falsely destined for one of Complainant's website is further evidence. Complainant also notes that Respondent used the WIKIPEDIA Marks in Respondent's previous websites so as to impersonate Complainant for commercial purposes.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

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 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.

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 entirety of the WIKIPEDIA Marks is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the WIKIPEDIA Marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here "drafts," may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the WIKIPEDIA Marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, 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 come forward 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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.

Panels have held that the use of a domain name for illegal activity, here claimed impersonation/passing off and 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 Respondent has used the disputed domain name for a website displaying a log in screen soliciting an email address and password. As the disputed domain name is confusingly similar to the WIKIPEDIA Marks, such use may be intended to improperly obtain log in information from Complainant's users. Further, the disputed domain name previously resolved to three different websites that falsely suggested an association with Complainant and that engaged in a scheme intended to deceive users into paying for the creation of articles falsely described to be destined for Wikipedia but were actually hosted on one of Respondent's prior websites. Respondent's use of the disputed domain name intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with Complainant's mark.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive 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.

Panels have held that the use of a domain name for illegal activity, here claimed impersonation/passing off and fraud, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that 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 <wikipediadrafts.com> be transferred to Complainant.

/Timothy D. Casey/

Timothy D. Casey

Sole Panelist

Date: March 21, 2024