

ADMINISTRATIVE PANEL DECISION

REDSPHER v. Privacy service provided by Withheld for Privacy ehf / Robert Brown, Flash logistic Services
Case No. D2022-1369

1. The Parties

The Complainant is REDSPHER, Luxembourg, represented by Office Freylinger S.A., Luxembourg.

The Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / Robert Brown, Flash logistic Services, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <flashlogisticservices.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 April 15, 2022. On April 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 19, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on May 2, 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 May 4, 2022.

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 May 9, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 29, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 7, 2022.

The Center appointed Steven A. Maier as the sole panelist in this matter on June 20, 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 corporation registered in Luxembourg. It is a provider of transport, freight, and logistics services.

The Complainant is the owner of numerous trademark registrations which include the name FLASH. Those registrations include, for example, European Union Trade Mark registration number 009140062 for the figurative mark FLASH together with a “planet” design, registered on December 20, 2010 for services in International Classes 35, 38, and 39.

The disputed domain name was registered on June 7, 2021.

The Complainant provides evidence that the disputed domain name has resolved to a website at “www.flashlogisticservices.com”. The website was headed “Flash logistic services – World’s Best Delivery Services” and comprised several pages which referred to freight, warehousing, and logistics services.

The Complainant states that the website was subsequently discontinued and, at the date of this Decision, the disputed domain name did not resolve to any active website.

5. Parties’ Contentions

A. Complainant

The Complainant states that it was founded in 1992 and conducts business internationally under the FLASH name and trademark. It states that it operates over 20,000 carriers and 40,000 vehicles and exhibits evidence of its history and business profile. The Complainant submits that its FLASH trademark therefore enjoys a high degree of public recognition.

The Complainant submits that the disputed domain name is confusingly similar to its FLASH trademark. It contends that the disputed domain name incorporates the whole of that trademark and that the addition of the terms “logistic” and “services” do not provide any distinction between the disputed domain name and its trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It says that it is not affiliated with the Respondent and has not authorized it to use its FLASH trademark, that the Respondent has not commonly been known by that name and that the Respondent is not making any *bona fide* commercial use of the disputed domain name.

With regard to the Respondent’s (now discontinued) website, the Complainant states that this contained no postal address or other means to contact the operator of the supposed business, other than a telephone number which was not answered. It contends that the website did not therefore evidence any *bona fide* business, or intention to commence any such business, under the disputed domain name.

The Complainant submits that the disputed domain name was registered and has been used in bad faith. It states that, in view of the Complainant’s 30-year history in the logistics sector, it is implausible that the Respondent was unaware of the Complainant when it registered the disputed domain name. The Complainant contends that the disputed domain name was registered with the deliberate intention of causing confusion with the Complainant’s trademark and services and points to the fact that the Respondent’s website offered freight, warehousing, and logistics services, being highly similar to the services offered by

the Complainant. The Complainant submits that these circumstances amount to a false representation of an affiliation between the disputed domain name and the Complainant. The Complainant contends that the Respondent intended to divert Internet users to its website by reason of this confusion, possibly with a view to obtaining advertising revenue.

The Complainant exhibits a “cease and desist” communication sent to the Respondent on February 21, 2022, to which it states no positive response was received.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (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 in respect of 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

The Complainant has established that it has registered trademark rights in the mark FLASH together with a “planet” design. The Panel finds the word FLASH to be the dominant element of that trademark. The disputed domain name comprises the word FLASH together with the terms “logistic” and “services”, which do not prevent the Complainant’s trademark from being recognizable within the disputed domain name. The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

In the view of the Panel, the Complainant’s submissions set out above give rise to a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file any Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise.

Having examined the Respondent’s website to which the disputed domain name previously resolved, the Panel notes that the website content is highly generic in nature, stating for example in its introductory passage:

“Flash Logistic Services is a full service logistics & cargo company, our aim is to give the best to our various clients at affordable [sic] price. At Flash Logistic Services, we are unceasingly progressing making research continuously and improving our services to the highest standards. Our client’s interest our priority. We are mindful of building a healthy relationship with our customers, suppliers sub-contractors and consultants, our goal is co-operation, teamwork to achieving a grand successful project at all time.”

There is nothing on the website to identify the operator or location of the business which it promotes and its supposed services are described in the most general of terms. For example, it states under "Road Freight", "The first methods of road transport were horses, oxen or even humans carrying goods." The website purports to include staff profiles, including "Jimmy - Supervisor" with the statement "I take care of your goods reach their destination safely" and "John Doe - Support" with the statement "I make sure you get the best experience working with us."

In the circumstances, the Panel is not persuaded that the Respondent's website represented any *bona fide* commercial offering of goods or services or evidenced any genuine preparations to use the disputed domain name for the purpose of any such *bona fide* offering. There is also no evidence that the Respondent is commonly known by the disputed domain name.

The Panel finds in the circumstances that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

In view of the Panel's findings concerning the Respondent's website and the Respondent's failure to answer the Complainant's contentions, the Panel can reach no reasonable conclusion other than that the Respondent's website was a sham, designed as a pretext for targeting the Complainant's FLASH trademark and its business goodwill attaching to that trademark. The Panel finds on balance that the Respondent was likely to have been aware of the Complainant's FLASH trademark when it registered the disputed domain name and that it did so with the intention of diverting Internet users who were looking for the Complainant to its own website, upon which it purported to offer services similar to the Complainant's. The Panel also infers that the Respondent intended to derive a commercial benefit from those actions, whether via future advertising on its website, the collection of personal data, the sale of the disputed domain name to the Complainant or in some other manner.

The Panel finds therefore that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy).

The fact of the Respondent's website being discontinued does not preclude a finding of bad faith and, in this particular case, merely amplifies the impression that the website did not reflect any *bona fide* commercial offering in the first place.

The Panel finds in the circumstances that the disputed domain name has been registered and is being used in 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 disputed domain name, <flashlogisticservices.com>, be transferred to the Complainant.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: June 27, 2022