

ADMINISTRATIVE PANEL DECISION

Redspher v. Domain Administrator, See PrivacyGuardian.org / Ramon Zobel
Case No. D2022-1371

1. The Parties

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

The Respondent is Domain Administrator, See PrivacyGuardian.org, United States of America / Ramon Zobel, Belgium.

2. The Domain Name and Registrar

The disputed domain name <flash-logistics.com> is registered with NameSilo, LLC (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 April 20, 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 April 22, 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 5, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 25, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 28, 2022.

The Center appointed Jane Seager as the sole panelist in this matter on June 13, 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

Incorporated on August 21, 1992, the Complainant is a Luxembourgish company engaged in the provision of transport, freight, and logistics services. The Complainant is the owner of a number of FLASH-formative trademarks, including:

- European Union trademark No. 009140062, FLASH (figurative), registered on December 20, 2010; and
- United Kingdom trademark registration No. UK00909140062, FLASH (figurative), registered on December 20, 2010.

The Complainant is also the registrant of the domain name <flash.global>, from which it operates a public-facing website.

The disputed domain name was registered on March 22, 2018. The disputed domain name resolves to a website titled “Flash Logistics Top-Notch Services”, purporting to offer logistics services (the “Respondent’s website”). The Respondent’s website lists a physical contact address in Belgium.

On March 1, 2022, the Complainant’s representatives sent a cease-and-desist letter to the Respondent via the contact email address as well as via the physical contact address listed on the Respondent’s website, requesting transfer of the disputed domain name. On March 29, 2022, the Complainant’s representatives forwarded the abovementioned cease-and-desist letter to the privacy service with which the disputed domain name had been registered. The Respondent did not reply to the Complainant’s cease-and-desist letter. On March 11, 2022, the Complainant’s representatives received a communication from a third party indicating that the third party had received the Complainant’s cease-and-desist letter, and that the Respondent’s business was not located at the address listed on the Respondent’s website.

5. Parties’ Contentions

A. Complainant

The Complainant asserts rights in various trademarks including the element FLASH. The Complainant submits that the disputed domain name is confusingly similar to its FLASH trademarks.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant states that the Respondent has received no authorization to make use of its FLASH trademarks in a domain name or otherwise, and argues that the Respondent is not making a *bona fide* offering of goods or services via the disputed domain name, nor is the Respondent commonly known by the disputed domain name.

The Complainant asserts that the disputed domain name was registered and is being used in bad faith. The Complainant notes that its rights substantially predate the registration of the disputed domain name, and submits that the Respondent knew or should have known of the Complainant at the time that the disputed domain name was registered. The Complainant submits that by using the disputed domain name, the Respondent has attempted to mislead Internet users seeking the Complainant to the Respondent’s website. Noting that the contact information available on the Respondent’s website appears to be false, the Complainant submits that the Respondent has taken measures “with fraudulent intent” in order to create confusion as to its identity and interests in using the disputed domain name.

The Complainant requests 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 prevail, the Complainant must demonstrate, on the balance of probabilities, that it has satisfied the requirements of paragraph 4(a) of the Policy:

- (i) the disputed 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 disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights in the trademark FLASH, the registration details of which are provided in the factual-background section above.

The disputed domain name comprises the textual component of the Complainant's FLASH trademark as its leading element, followed by a hyphen and the term "logistics", under the generic Top-Level Domain ".com". As stated in WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8, "[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element." In this regard, the Panel finds that the addition of the element "-logistics" does not prevent a finding of confusing similarity with the Complainant's FLASH trademark, which remains clearly recognizable in the disputed domain name; see *Accenture Global Services Limited v. Duram Mascarin*, WIPO Case No. [D2019-3212](#) (<accenturelogistics.com>).

The Panel finds the disputed domain name to be confusingly similar to the Complainant's FLASH trademark. The Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

While 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element; see [WIPO Overview 3.0](#), section 2.1.

As noted above, the disputed domain name resolves to a website purporting to provide logistics services. The Panel notes that the Complainant attempted to contact the Respondent via the contact information listed on the Respondent's website, as well as via the WhoIs-listed contact email address; however, the Respondent did not reply to the Complainant's communications. The Respondent's website indicates a physical contact address in Belgium. According to evidence submitted by the Complainant, no such business appears to be in operation at the physical address listed on the Respondent's website, and no such company is listed on the Belgian companies register. Despite having been duly notified of the Complaint, the Respondent has not come forward to assert rights or legitimate interests in the disputed domain name. In

the circumstances, the Panel considers it more likely than not that the Respondent's website does not reflect that of a genuine business, but rather is intended to mislead Internet users as to the source of the services offered therein. The Panel finds that the Respondent is not making use of the disputed domain name in connection with a *bona fide* offering of goods or services pursuant to paragraph 4(c)(i) of the Policy.

The Respondent's name, Ramon Zobel, bears no resemblance to the disputed domain name. There is no other evidence to support a finding that the Respondent is commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy. Nor is the Respondent making any legitimate noncommercial or fair use of the disputed domain name as contemplated by paragraph 4(c)(iii) of the Policy.

For reasons set out above, the Panel finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. In the absence of any rebuttal from the Respondent, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Complainant's rights in the FLASH trademark predate the Respondent's registration of the disputed domain name by several years. The Panel notes that the Complainant appears to be engaged in widespread operations throughout Europe, where the Respondent claims to be located. Given that the disputed domain name comprises the Complainant's FLASH trademark, together with a descriptive term that makes direct reference to the Complainant's primary area of business, *i.e.*, "logistics", the Panel infers that the Respondent likely knew of the Complainant's FLASH trademark when registering the disputed domain name, and did so with a view to misleading Internet users as to the source of the disputed domain name, in bad faith. In the circumstances, noting that the Respondent appears to have provided false contact information on its website, the Panel finds the Respondent's registration of the disputed domain name using a privacy service to be further evidence of the Respondent's bad faith; see [WIPO Overview 3.0](#), section 3.6.

As noted above, the disputed domain name resolves to a website that purports to offer logistics services; however, the Respondent's website does not appear to reflect that of a genuine business. The Panel finds that the Respondent's use of the disputed domain name, as described above, has the effect of creating confusion amongst Internet users. Indeed, there is potential for such a domain name to be used in the furtherance of a fraudulent scheme targeting unsuspecting customers of the Complainant. The Respondent has made no attempt to provide any evidence of its *bona fide* intentions that it may have regarding the disputed domain name. The Panel finds that the Respondent is using the disputed domain name in bad faith. The Complainant has satisfied the requirements of 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 disputed domain name <flash-logistics.com> be transferred to the Complainant.

/Jane Seager/

Jane Seager

Sole Panelist

Date: June 27, 2022