

ADMINISTRATIVE PANEL DECISION

7-Eleven International, LLC v. Registration Private, Domains By Proxy, LLC /
Pawan Janorkar
Case No. D2022-2239

1. The Parties

The Complainant is 7-Eleven International, LLC, United States of America (“United States”), represented by Corrs Chambers Westgarth, Australia.

The Respondent is Registration Private, Domains By Proxy, LLC, United States / Pawan Janorkar, India.

2. The Domain Name and Registrar

The disputed domain name <fuelpricelock.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 21, 2022. On June 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 22, 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 June 23, 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 June 27, 2022.

The Center verified that the Complaint (together with the amendment to the Complaint/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 June 30, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 20, 2022. The Respondent sent informal email communications on June 23, and June 28, 2022. The Center informed the Parties of its commencement of Panel Appointment process on July 22, 2022.

The Center appointed Marilena Comanescu as the sole panelist in this matter on August 1, 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, headquartered in Texas, United States, is a multinational provider of convenience store items and fuel in numerous countries worldwide. The Complainant's group of companies oversee internationally more than 77,000 retail convenience stores named "7-Eleven".

In relation to its sale of fuel, the Complainant offers an additional service named "Fuel Price Lock" which allows its customers to select the fuel they would like to purchase, search with the local 7-Eleven fuel store offers the best fuel price and lock that fuel price in for seven days.

The Complainant owns trademark registrations including the words "Fuel Price Lock" such as the Australian Trademark Registration No. 1716904, for the word mark 7-ELEVEN FUEL PRICE LOCK, filed on August 26, 2015, entered on register on April 4, 2016, and registered for goods and services in the International Classes 9 and 35 (the "7-Eleven Trademarks").

The Complainant uses the name "Fuel Price Lock" on its website, on mobile phone applications, and on various social media posts.

The disputed domain name was registered on February 11, 2022, and at the time of filing the Complaint, it resolves to a commercial website depicting the Complainant's trademarks and names, 7-Eleven and Fuel Price Lock, and lists a number of official stores of the Complainant. Also, on the website under the disputed domain name customers are invited to provide their 7-Eleven email addresses and passwords in order to submit a fuel lock request; when the Complainant's representative inserted such details, it was further asked to provide its card details and subscribe by paying AUD 3.99 per month for five locks a month.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to its trademark 7-ELEVEN FUEL PRICE LOCK and identical to its name Fuel Price Lock, the Respondent has no rights or legitimate interests in the disputed domain name, and the Respondent registered and is using the disputed domain name in bad faith knowing the Complainant's trademark and business. The Complainant requests the transfer of the disputed domain name.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions.

On June 23, 2022, the Center received an email communication from the Respondent asking what is the general purpose of the dispute and who initiated it "so i can initiate the legal action in my defence".

Further, on June 28, 2022, the Respondent send another communication to the Complainant's representative, asking to remove his name (which the Panel notes was based on the registrant email contact information provided by the registrar, and bore the same surname as the listed Respondent and was the same as the email address from which the Respondent has communicated in this case) from the Complaint.

No other communications, in particular none addressing the case merits, were received from the Respondent.

6. Discussion and Findings

In view of the absence of a formal Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent. Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the following circumstances are met:

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

The Panel will further analyze the potential concurrence of the above circumstances.

A. Identical or Confusingly Similar

The Panel finds that the Complainant holds registered rights in the 7-Eleven and 7-ELEVEN FUEL PRICE LOCK Trademarks and common law rights in the name Fuel Price Lock.

The disputed domain name contains substantial elements of the 7-Eleven and 7-ELEVEN FUEL PRICE LOCK Trademarks and reproduces exactly the Complainant's name Fuel Price Lock.

In accordance with section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), 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 the complainant's trademark and the disputed domain name. Previous UDRP panels view the first element as a threshold test concerning a trademark owner's standing to file a complaint, *i.e.*, to ascertain whether there is a sufficient nexus to assess the principles captured in the second and third elements.

This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the domain name.

Further, it is well established in decisions under the UDRP that the generic Top-Level Domain ("gTLD") (*e.g.*, ".com", ".site", ".info", ".shop") is typically disregarded for the purposes of consideration of confusing similarity between a trademark and a domain name. See section 1.11 of the [WIPO Overview 3.0](#).

The Panel also notes in the circumstances of this case that the Respondent's website resolved to a commercial website depicting the Complainant's trademarks and names, even listing official stores of the Complainant; moreover customers were invited to provide their contact information and credit card details (thinking they were dealing with the Complainant when they were not).

Given the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks, pursuant to the Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

The Complainant asserts that the Respondent does not hold any trademark rights, license, or authorization whatsoever to use the 7-Eleven or 7-ELEVEN FUEL PRICE LOCK trademarks, that the Respondent is not commonly known by the disputed domain name and that the Respondent has not used the disputed domain name in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods or services.

Under the Policy, “[...] 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 section 2.1 of the [WIPO Overview 3.0](#).

There is nothing in the record suggesting that the Respondent has ever been commonly known by the disputed domain name or that the Respondent made a *bona fide* offering of goods or services or a legitimate noncommercial use under the disputed domain name.

The Respondent has not substantially replied to the Complainant's contentions and has not come forward with relevant evidence to rebut the Complainant's *prima facie* case.

Also, according to the records before it, the Respondent has used the disputed domain name in connection with a website providing services similar to those offered by the Complainant, featuring the Complainant's trademarks, the Complainant's copyright material and pictures from its own website, leaving no doubt that the Respondent was using the disputed domain name to impersonate the Complainant. In this regard, previous UDRP panels have categorically held that the use of a domain name for illegal activity (such as swindle, fraud, identity theft, phishing and impersonation) can never confer rights or legitimate interests in a respondent. See section 2.13 of the [WIPO Overview 3.0](#).

For these reasons, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, pursuant to the Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The Complainant holds trademark rights in 7-ELEVEN FUEL PRICE LOCK since 2015 and uses the name Fuel Price Lock extensively worldwide.

The disputed domain name was created in 2022 and incorporates the dominant elements of the Complainant's trademarks. The website at the disputed domain name also feature the Complainant's trademarks and depicts images of the Complainant's official stores.

For the above, the Panel finds that the disputed domain name was registered in bad faith, with knowledge of the Complainant, its business, and particularly targeting its trademarks.

At the time of filing the Complaint, the disputed domain name resolved to a website providing services similar to those of the Complainant, was featuring the 7-Eleven and 7-ELEVEN FUEL PRICE LOCK Trademarks, and was listing a number of genuine retail stores of the Complainant.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt “[...] to attract, for commercial gain, Internet users to [the respondent's] website 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 [the respondent's] website or location or of a product or service on [the respondent's] website or location [...]” is evidence of registration and use in bad faith.

The Respondent was using without permission the Complainant's trademark in order to generate traffic to its website and thus to obtain commercial gain from the false impression created with regard to a potential affiliation or connection with the Complainant. Such impression is created in particular by the composition of the disputed domain name, the content of the website under the disputed domain name, which displays the Complainant's trademarks, promotes services identical to those of the Complainant, lists official stores of the Complainant and falsely claims to provide services in the Complainant's store. Such diversion of the Internet users looking for the Complainant's official website to the Respondent's website under the disputed domain name may also cause disruption of the Complainant's business and ultimately may tarnish its trademark and business.

Also, the use of a domain name for illegal activity such impersonation/passing off can never confer rights or legitimate interests on a respondent and it is considered evidence of bad faith. See section 3.13.1 of the [WIPO Overview 3.0](#).

Although the Respondent sent two informal communications, he failed to provide a substantial response to the Complainant's allegations. Along with other circumstances in this case, such fact is a sign of bad faith. See section 3.6 of the [WIPO Overview 3.0](#).

For all the above reasons, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith, pursuant to the Policy, paragraph 4(a)(iii).

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 <fuelpricelock.com> be transferred to the Complainant.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: August 15, 2022