

## **ADMINISTRATIVE PANEL DECISION**

Travellers Exchange Corporation Limited v. sdfa, gas fas  
Case No. D2023-0919

### **1. The Parties**

The Complainant is Travellers Exchange Corporation Limited, United Kingdom, represented by Deloitte LLP, United Kingdom.

The Respondent is sdfa, gas fas, Hong Kong, China.

### **2. The Domain Name and Registrar**

The disputed domain name <travelexfx.net> are registered with NameSilo, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 2, 2023. On March 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 3, 2023, 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 (Unknown) and from the Respondent identified by reference to Annex [1] to the Complaint (Redacted for Privacy, See PrivacyGuardian.org) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 7, 2023 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 March 16, 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 the Respondent of the Complaint, and the proceedings commenced on March 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 11, 2023.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on April 18, 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**

The Complainant is a leading player in the foreign exchange business industry and provides its goods and services under the trade mark TRAVELEX.

The Complainant currently operates across 60 countries and has an extensive global portfolio of trade marks containing the term “travelex” , including the following:

- Chinese Trademark Registration for TRAVELEX No. 1014563 registered on July 30, 2009; and
- United States of America Trademark registration for TRAVELEX No. 1694803 registered on June 16, 1992.

The Complainant and its related entities also own the domain names <travelex.com>, <travelex.co.uk>, and <travelex-corporate.com>, amongst others.

The disputed domain name was registered on September 11, 2022 by the Respondent who appears to be based in China. The disputed domain name is inactive and resolves to an error page.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant requests that the disputed domain name be transferred to the Complainant.

According to the Complainant, each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case.

First, the Complainant submits that the disputed domain name is identical or confusingly similar to the trademark registrations of the Complainant.

Second, the Complainant argues that the Respondent has neither rights nor legitimate interests in the disputed domain name.

Third, the Complainant submits that the disputed domain name was registered and is being used in bad faith.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

Paragraph 4(a) of the Policy lists three elements, which a complainant must satisfy in order to succeed. The Complainant must satisfy that:

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

## 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 the 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.

Based on the available record, the Panel finds the 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 disputed domain name contains the mark of the Complainant with the addition of the term "fx". The Panel finds the entirety of the TRAVELEX mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is identical or confusingly similar to the mark for the purposes of the Policy. The addition of the term "fx" does not prevent a finding of confusing similarity. WIPO Overview 3.0, section 1.7.

Based on the available record, the Panel finds the first element of the Policy has been established.

## B. Rights or Legitimate Interests

Under the Policy, a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. Once such a *prima facie* case is made, the respondent carries the burden of production of demonstrating rights or legitimate interests in the domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. WIPO Overview 3.0, section 2.1.

Paragraph 4(c) of the Policy lists the ways that a respondent may demonstrate rights or legitimate interests in the domain name:

- (i) before any notice of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent (as an individual, business or other organization) has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

In this case, the Panel finds that the Complainant has made out a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. In particular, the Respondent has not submitted any arguments or evidence to rebut the Complainant's contention that it has never authorized, licensed or permitted the Respondent to use the TRAVELEX mark in any way.

The disputed domain name is not in use. Therefore, the Respondent is not using the disputed domain name in connection with any *bona fide* offering of goods or services, nor is the Respondent making a legitimate noncommercial or fair use of the disputed domain name.

Therefore, the Panel concludes that the Respondent does not have rights or legitimate interests in the disputed domain name within the meaning of the Policy, paragraph 4(a)(ii).

### 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.

The Panel considers that the record of this case reflects that:

- The Complainant's trademark registrations have been in use for more than 40 years in more than 60 countries.
- The disputed domain name contains the entirety of the Complainant trademark with the addition of the term "fx". The use of the letters "fx" after the name TRAVELEX in the disputed domain name is a direct reference to the business of the Complainant and, therefore, reinforces the argument that the disputed domain name was registered in bad faith.
- The Complainant has never authorized, licensed or otherwise consented to the Respondent's use of its trademarks or any confusingly similar variation thereof, for any purpose including as part of a disputed domain name.
- The Respondent never answered the cease and desist letter and then defaulted.

As a result, there is no doubt that the Respondent knew or should have known about the existence of the Complainant and its trademarks. In the circumstances, the Panel finds that the Respondent registered the disputed domain name in bad faith.

With respect to bad faith use, the Panel finds that noting the reputation of the Complainant's TRAVELEX mark, the Respondent's non-use, or "passive holding," of the disputed domain name qualifies as bad faith use under the principle first set forth in *Telstra Corp. v. Nuclear Marshmallows*, WIPO Case No. D2000-0003.

The Complainant has established 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, <travelexfx.net> be transferred to the Complainant.

*/Pablo A. Palazzi/*

**Pablo A. Palazzi**

Sole Panelist

Date: April 28, 2023