

ADMINISTRATIVE PANEL DECISION

F5, Inc., f/k/a F5 Networks, Inc. v. John Hilt
Case No. D2024-0735

1. The Parties

The Complainant is F5, Inc., f/k/a F5 Networks, Inc., United States of America (“United States”), represented by Azora Law, United States.

The Respondent is John Hilt, United States.

2. The Domain Name and Registrar

The disputed domain name <f5license.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 February 16, 2024. On February 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 19, 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 (“f5 license company”) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 20, 2024, the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on March 5, 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 the Respondent of the Complaint, and the proceedings commenced on March 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 26, 2024. The Respondent sent email communications to the Center on March 6, 2024, and March 7, 2024. The Center notified the Commencement of Panel appointment process on March 28, 2024.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on April 4, 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

The Complainant is an information technology company organized as a corporation under the laws of the State of Washington and headquartered in Seattle, Washington, United States. The Complainant operates a website (the "Complainant's website") at "www.f5.com" advertising its network and applications security products and services. The Complainant was founded in 1996. Its stock is traded on the NASDAQ stock exchange, and the company reported fiscal year revenues of USD 2.8 billion.

The Complainant holds several relevant trademark registrations, including the following:

Mark	Jurisdiction	Registration Number	Registration Date	Goods or Services
F5 (word and design)	European Union	000464495	October 13, 1999	Switches, routers, software, manuals, computer consulting services, etc.; IC 9, 16, 42
F5 (word)	European Union	001855378	December 18, 2001	Computer hardware and software, computer consulting services; IC 9, 42
F5 (word)	United States	2427084	February 6, 2001	Computer hardware and software, computer consulting services; IC 9, 42

The Registrar reports that the disputed domain name was created on August 3, 2021, and was registered in the name of the Respondent John Hilt, showing no organization and listing a postal address in the state of Wyoming, United States, with a Gmail contact email address.

The Complaint attaches screenshots of the website to which the disputed domain name resolved on February 14, 2024 (the "Respondent's website"). This site was headed "f5 lisen" [sic] in a white on red logo similar to the Complainant's, with the tag line "Providing All f5 lisen". The Respondent's website displayed the Complainant's logo along with names, model numbers, and some photos of what appeared to be the Complainant's products. The website included this description of the Respondent's website, if not the Respondent itself:

"f5 lisen is a privately held information technology website established in 2015. Here in f5 lisen, we aim to offer our customers a variety of the latest f5 devices and licenses by having a group of certified consultants with vast experience in Information Technology."

The Respondent's website displayed on another page a postal address and telephone number in Stockholm, Sweden, as well as the name of a "sales agent" in Stockholm. The site offered price quotes on request and included a contact form soliciting name and email details from site visitors. The site included links to social media accounts.

5. Parties' Contentions

A. Complainant

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

Notably, the Complainant contends that the disputed domain name is confusingly similar to the Complainant's registered F5 marks, which the Respondent has no permission to use. The Complainant states its belief that the Respondent's website advertised "unauthorized or counterfeit goods and services" and offered "unauthorized resales or other unauthorized access to Complainant's goods and services". The Complainant concludes that the Respondent is using the disputed domain name "with intent for fraudulent gain to misleadingly divert consumers and dilute the F5 Marks".

B. Respondent

The Respondent did not reply substantively to the Complaint or other communications from the Center. Instead, the Respondent sent emails to the Center saying, "Hi, It seems you are interested to buy my domain, so please let me know your offer" and "What is your offer for this domain?"

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that a complainant must demonstrate each of the following:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) and the respondent has no rights or legitimate interests in respect of the domain name;
- (iii) and the domain name has been registered and is being used in bad faith.

Under paragraph 15(a) of the Rules, "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

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.

The Complainant has shown rights in respect of a trademark or service mark, F5, for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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

Although the addition of other terms (here, "license") 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 mark 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 the 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 the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the 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. The Respondent has not demonstrated that it is known by a corresponding name, and it has not rebutted the Complainant’s assertion that the Respondent’s website offered unauthorized and counterfeit goods. The Respondent has not claimed nominative fair use as a reseller of the Complainant’s trademarked products, and in any event the Respondent’s website did not meet the widely accepted *Oki Data* test for assessing such fair use, as it did not disclose the Respondent’s relationship with the trademark holder. See *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#); [WIPO Overview 3.0](#), section 2.8.

Moreover, panels have held that the use of a domain name for illegal activity (here, claimed to include the sale of counterfeit goods) 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 Respondent was clearly aware of the Complainant’s long-established F5 mark, as the Respondent’s website reproduced the mark, along with the names and images of the Complainant’s products, and claimed expertise in dealing with “F5 licenses”.

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. These include paragraph 4(b)(iv), intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s mark. That describes the present circumstances.

Moreover, panels have held that the use of a domain name for illegal activity (here, claimed to include the sale of counterfeit goods) must be considered bad faith for Policy purposes. [WIPO Overview 3.0](#), section 3.4.

The Panel considers further that the Respondent’s conduct in failing to reply to the Complainant and the Center, other than to demand payment for the transfer of the disputed domain name, particularly noting how the disputed domain name was being used, indicates a disregard for the trademark rights of others, also suggestive of bad faith.

On this record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the 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 <f5license.com> be transferred to the Complainant.

/W. Scott Blackmer/

W. Scott Blackmer

Sole Panelist

Date: April 16, 2024