

ADMINISTRATIVE PANEL DECISION

Massachusetts Financial Services Company v. Vinay Jaiswal, VINAY MFS/
MFS VINAY

Case No. D2024-3028

1. The Parties

The Complainant is Massachusetts Financial Services Company, United States of America (“United States”), represented by RNA, Technology and IP Attorneys, India.

The Respondent is Vinay Jaiswal, Vinay MFS, India.

2. The Domain Name and Registrar

The disputed domain name <mfsvinay.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 25, 2024. On July 25, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 26, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. The Respondent sent two informal email communications to the Center on August 10, 2024.

The Center verified that 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 August 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 1, 2024. No formal response was received from the Respondent. Pursuant to paragraph 6 of the Rules, the Center commenced the panel appointment process on September 11, 2024.

The Center appointed Assen Alexiev as the sole panelist in this matter on September 20, 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 a global investment company founded in 1924 under the name Massachusetts Investors Trust. In 1969, it was reorganized as Massachusetts Financial Services and started operating under the brand MFS. The Complainant offers financial products and services, including mutual funds, retirement plans, college savings plans, and insurance-related plans in the United States and other countries. In 2022, the Complainant managed more than USD 547 billion in assets for clients globally through a team of about 400 investment professionals in Boston, London, Singapore, Tokyo, Mexico City, Sydney, Toronto, Sao Paulo, and Hong Kong, China.

The Complainant is the owner of a number of trademark registrations for MFS (the “MFS trademark”), including the following registrations:

- the United States trademark MFS with registration No. 1233922, registered on April 5, 1983 for services in International Class 36; and
- the Indian trademark MFS with registration No. 1509458, registered on December 1, 2006, for services in International Class 36.

The Complainant is also the owner of the domain name <mfs.com>, registered on July 23, 1994, which resolves to its official website.

The Respondent is a mutual fund distributor, registered in the Association of Mutual Funds in India under the name Vinay Jaiswal. According to its own communication to the Center, the Respondent “is not a company”.

The disputed domain name was registered on January 30, 2015. It resolves to a website that advertises the services of the Respondent under the brand “MFSVinay” and offers various investment options in mutual fund products and related advice and information. The website includes the following slogan:

“MFSVINAY
Achieve your Dream With Me
A MUTUAL FUND DISTRIBUTOR”.

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.

The Complainant states that it has been commonly known as “MFS” since 1969 and extensively uses this acronym as trade name and trademark in respect of its financial products and services around the world. According to the Complainant, its MFS trademark has acquired distinctiveness, become a well-known mark and is exclusively associated by the members of the trade and the public worldwide, including in India, exclusively with the Complainant’s products, services and business.

The Complainant states that the disputed domain name is confusingly similar to its MFS trademark, because it incorporates this trademark in its entirety, and the addition of the common Indian personal name “Vinay” does not distinguish the disputed domain name from the MFS trademark, which is its most recognizable part.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, because it is not commonly known by the disputed domain name and the Complainant has not permitted it to use the well-known MFS trademark, which was first registered several decades before the disputed domain name. According to the Complainant, the Respondent’s purpose in selecting the disputed domain name was to exploit the fame of the Complainant’s MFS trademark to generate web traffic and to confuse Internet users who might be looking for the Complainant and its products and services. In the

Complainant's submission, such use is neither a bona fide offering of goods or services nor a legitimate non-commercial or fair use of the disputed domain name.

The Complainant contends that the disputed domain name was registered and is being used in bad faith.

In the Complainant's view, given the prominence and well-known status of the Complainant, it is unlikely that the Respondent was unaware of the MFS trademark at the time of registering the disputed domain name in January 2015. According to the Complainant, the Respondent's choice and registration of the disputed domain name was made to derive an unfair monetary advantage from the goodwill of the Complainant, which is evident from the content of the website at the disputed domain name which offers mutual fund products, investment and financial services.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions. With its two informal communications to the Center, the Respondent stated:

"I am in process of changing name. Within month it will be completed."

"And I am not a company."

6. Discussion and Findings

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 the MFS trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the MFS trademark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the MFS trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, the common Indian name "Vinay")¹ 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

¹ See <https://en.wikipedia.org/wiki/Vinay>

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 MFS trademark was registered for financial services several decades before the disputed domain name which is confusingly similar to it and resolves to a website that offers services that are the same or similar to the services offered by the Complainant under the MFS trademark. While the disputed domain name consists of the Respondent's name and the acronym "MFS", which could be understood as a reference to the "mutual funds services" seemingly provided by the Respondent as a registered member of the Association of Mutual Funds in India, in its communications to the Center, the Respondent does not claim having rights or legitimate interests in the disputed domain name or in any related trademark, but rather states that it is in the process of changing its name.

Taking all the above into account, the Panel accepts as more likely than not that the Respondent has targeted the Complainant with the registration and use of the disputed domain name in an attempt to create an association with the Complainant and thus to attract customers for its business for commercial gain. Such activity cannot give rise to rights or legitimate interests in the disputed domain name.

The Panel therefore finds that the second element of the Policy has been established.

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.

In the present case, the Panel notes that the Respondent has registered the disputed domain name incorporating the MFS trademark many years after the Complainant started using the same trademark, and has associated the disputed domain name to a website that offers the same or similar services to the services provided by the Complainant since 1969 under the same trademark. The Respondent has not provided any explanation for its choice of a domain name and has only stated that it is in the process of changing it.

Taking the above into account, and the absence of any allegation or evidence to the contrary, the Panel reaches the conclusion that it is more likely than not that by registering and using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the associated website by creating a likelihood of confusion with the Complainant's MFS trademark. This supports a finding of bad faith registration and use of the disputed domain name.

The Panel therefore 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 <mfsvinay.com> be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: October 4, 2024