

ADMINISTRATIVE PANEL DECISION

Property Finder IP Holding Limited v. sandra dissanayaka
Case No. D2024-4706

1. The Parties

The Complainant is Property Finder IP Holding Limited, United Arab Emirates, represented by Audiri Vox Intellectual Property Rights Management, United Arab Emirates.

The Respondent is sandra dissanayaka, United Arab Emirates, represented by Ahmed Hassan Al Mazmi Advocates & Legal Consultants, United Arab Emirates.

2. The Domain Name and Registrar

The disputed domain name <propertyfindersuae.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 November 13, 2024. On November 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 15, 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 (Property Finders Real Estate) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 19, 2024, 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 November 20, 2024.

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 November 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 15, 2024. The Respondent sent email communications to the Center on November 21, 2024, November 22, 2024, and December 10, 2024. The Response was filed with the Center on December 14, 2024.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on January 20, 2025. 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 online real estate advertising platform operating throughout the Middle East and owns many trademark registrations for PROPERTY FINDER such as:

- 1) United Arab Emirates Trademark Registration No. 212893, registered on February 10, 2015;
- 2) United Arab Emirates Trademark Registration No. 212894, registered on February 10, 2015.

The Complainant owns the domain name <propertyfinder.com> which was first created in 2000. The Complainant is the IP holder for its sister company Propertyfinder FZ LLC, registered in the United Arab Emirates on October 2, 2007.

The disputed domain name was registered on November 8, 2012, and resolves to a website that lists homes offered for sale or rent.

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 identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The disputed domain name incorporates the Complainant's trademark in full adding to it the letter "s" and the letters "uae".

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant did not authorize the Respondent to use its trademark. The Respondent is not commonly known by the disputed domain name. The Respondent is not making a fair use of the disputed domain name as it is being used for passing off.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant's trademark is well-known. The Respondent must have had knowledge of the Complainant's trademark. The Respondent is using the disputed domain name in order to attract Internet users for commercial gain by creating the likelihood of confusion with the Complainant's trademark. The Respondent registered the disputed domain name in order to disrupt the Complainant's business. The Respondent did not answer the cease-and-desist letter sent.

B. Respondent

The Respondent submits that it has been operating in the United Arab Emirates for over 12 years using the disputed domain name while the Complainant started using its <propertyfinder.ae> domain name in 2017. According to the Respondent, "There is no identical similarity between the domains" given that the top-level domains are different.

The Respondent was registered in 2012 to conduct activities in the real estate sector and the name chosen reflected its business activity and the name was available. The disputed domain name was registered in order to correspond and be aligned with the Respondent's name. The Respondent has legitimate interest in the domain name. The activities of the Respondent, focusing on property management, sales, and rentals as part of real estate activities, are different from those of the Complainant, recognized as a portal for real estate services.

When the Respondent registered the disputed domain name, it was not aware of the Complainant's business. The Complainant contacted the Respondent in 2018 to offer their services and did not raise a concern about the Respondent's domain name. The Respondent does not plan to engage in services similar to those of the Respondent as the latter is a real estate company who works with owners and clients and is not a portal. The Respondent has an established brand in "Property Finder Real Estate".

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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. While the Panel notes that the registration of the disputed domain name predates the registration date of the Complainant's trademark, this is considered under the subsequent discussion below.

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, the letter "s" and the letters "uae" may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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.

The Panel finds it necessary to consider two grounds that may grant the Respondent rights or legitimate interests in the disputed domain name. 1. The disputed domain name is being used to offer property for rent or sale, which itself is a legitimate business. But the Panel is of the view that the disputed domain name was chosen with the intention of confusing Internet users into believing that it is associated with the Complainant and as such this is not a bona fide offering in terms of the Policy. Further analysis on this point is provided under the third element. 2. Putting aside that the chosen business name and domain name appear to capitalize on the reputation and goodwill of the Complainant, the Panel notes that the professional license of the Respondent shows the business name “Property Finders Real Estate”. Therefore, there may be an argument that the Respondent is known by the disputed domain name. However, this argument fails because the Respondent has not reflected the entirety of its business name in the disputed domain name. The Respondent has left out the words “Real Estate” and added the letters “uae”. In fact, the Respondent alleges that it has an established brand in “Property Finders Real Estate”, but the disputed domain name does not reflect the entirety of the said brand. Therefore, it is not possible to argue that the Respondent is commonly known by the disputed domain name but rather it appears that the disputed domain name – which consists of the PROPERTY FINDER trademark in its entirety (with the plural form of “finder”) as well as the geographic term “uae” – was chosen to evoke an association with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

The Panel also notes that, while the evidence annexed by the Respondent shows that the Complainant was aware of the Respondent at least as early as 2018, there is no evidence that the Respondent detrimentally relied on any action or inaction on the part of the Complainant. [WIPO Overview 3.0](#), section 4.17.

The Panel finds 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 Respondent alleges that it was not aware of the Complainant’s business when creating the disputed domain name in 2012, in part because, at the time of registration, “online portals were not as prevalent”. While the Panel accepts this as possible, the Panel also notes that the Complainant’s name “PROPERTY FINDER” was made public in 2007 when the take-over of its business was announced. Internet Archive records show use of the Complainant’s domains throughout the 2000s, including within the United Arab Emirates market. It is difficult to accept that the Respondent was not aware of the Complainant’s name when the Respondent operates in the field of real estate, i.e., the same field as the Complainant (despite the Respondent’s assertions to the contrary), and in the same region. Additionally, the website to which the disputed domain name resolves displays a logo that is similar in color and design to that of the Complainant. Also, the logo is placed at the top left corner of the said website which is the same corner where the Complainant’s logo is placed on the latter’s website. The words “Property” and “Finder” are also displayed in a manner similar to their display on the Complainant’s website. The homepage of the disputed domain name states that “[a]t Property Finders, we specialize in meeting all your real estate needs in the UAE real estate market”, not identifying themselves by their business name “Property Finders Real Estate”. Therefore, it is the Panel’s view that the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the complainant’s mark.

In addition to the evidence of its registered mark set out above, the Panel notes that the Complainant annexed articles from national publications showing recognition of the “Property Finder” brand, which predate the registration of the disputed domain name. The Complainant also annexed evidence of recognition of the “Property Finder” brand as one of the top real estate property websites in Dubai and the United Arab Emirates, where both the Complainant and Respondent are located. Further, the Complainant is the owner of the domain names <propertyfinder.com>, which was registered in 2000, and <propertyfinder.ae>. Noting in particular the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the UDRP Rules, the Panel consulted the Internet Archive for both domain names, which revealed

that both have been in use since at least the 2000s. [WIPO Overview 3.0](#), section 4.8.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegitimate activity here, claimed impersonation/passing off constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the 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 <propertyfindersuae.com> be transferred to the Complainant.

/Nayiri Boghossian/

Nayiri Boghossian

Sole Panelist

Date: February 3, 2025