

ADMINISTRATIVE PANEL DECISION

Fundbox Ltd. v. Paul Wells, FUNDBOX, INC.
Case No. D2024-5050

1. The Parties

The Complainant is Fundbox Ltd., Israel, represented by Sheppard, Mullin, Richter & Hampton, LLP, United States of America ("United States").

The Respondent is Paul Wells, FUNDBOX, INC., United States.

2. The Domain Name and Registrar

The disputed domain name <fundboxinc.com> is registered with CloudFlare, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 6, 2024. On December 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 10, 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 ("Data redacted by Cloudflare, Inc.") and contact information in the Complaint. The Center sent an email communication to the Complainant on December 10, 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 December 12, 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 December 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 7, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 8, 2025.

The Center appointed Kiyoshi Tsuru 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 Israeli based company with operations in the United States. The Complainant operates a financial services platform that offers credit and payment solutions to small and medium-sized businesses. The Complainant's primary offering is a revolving line of credit where companies can apply for loans online and get a decision within minutes. The Complainant has unlocked over USD 3 billion in capital and connected to over 500,000 businesses.

The Complainant is the owner of several trademark registrations, including the following:

Trademark	Registration No.	Jurisdiction	Date of Registration	Class
	6414305	United States.	July 13, 2021.	Class 35.
	6220269	United States.	December 15, 2020.	Class 42.
	6215130	United States.	December 8, 2020.	Class 36.
FUNDBOX	4871222	United States.	December 15, 2015.	Class 35, Class 36 and Class 42.
FUNDBOX	4867584	United States.	December 8, 2015.	Class 36.

The Complainant owns the domain name <fundbox.com>, which was registered since March 19, 2005, and which resolves to the said Complainant's official website.

The disputed domain name <fundboxinc.com> was registered on August 2, 2024. It resolved to a website displaying the Complainant's FUNDBOX trademark, without any disclaimer as to the lack of association thereof with the Complainant, as well as the Complainant's former business address as if it was the Respondent's address. At the date of writing this Decision, the disputed domain name does not resolve to an active website.

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 the following:

I. Identical or Confusingly Similar

That the Respondent has used the Complainant's FUNDBOX trademarks in the disputed domain name, in

an identical manner, and that the disputed domain name resolves to a website that promotes the same services that those offered by the Complainant, while using the Complainant's FUNDBOX trademarks.

That previous courts and Panels have found that the incorporation of a trademark in its entirety is sufficient to establish that a domain name is identical or confusingly similar to a complainant's registered trademark (and cites *Hoffman La-Roche Inc. v. Hightech Industries, Andrew Browne*, WIPO Case No. [D2010-0240](#)).

That the inclusion of the descriptive term "inc" at the end of the disputed domain name does not differentiate the disputed domain name from the Complainant's FUNDBOX trademarks (and cites *Deutsche Telekom AG v. Wray Landreth*, WIPO Case No. [D2004-0171](#) and WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition [["WIPO Overview 3.0"](#)] section 1.8).

That the Panel should disregard the generic Top-Level Domain ("gTLD") ".com" for purposes of assessing confusing similarity under the Policy (and cites *Philipp Plein v. Henry Compte*, WIPO Case No. [D2016-1565](#)).

That the Respondent has clearly targeted the Complainant's FUNDBOX trademarks since he not only uses the Complainant's FUNDBOX trademarks identically, but he has also caused the disputed domain name to resolve to a website that displays information about financial services together with the Complainant's former business address (and cites [WIPO Overview 3.0](#), section 1.15).

That consumers will mistakenly believe that the disputed domain name has been originated in, is associated with, or is sponsored by the Complainant, which is not the case.

II. Rights or Legitimate Interests

That, under the Policy, a complainant is required to demonstrate a prima facie case that the respondent lacks rights or legitimate interests, and once a prima facie case has been established, the respondent has the burden of proving his rights or legitimate interests, and if the respondent fails to do so, the complainant is deemed to have satisfied the second requirement under the Policy (and cites *Morgan Freeman v. Mighty LLC*, WIPO Case No. [D2005-0263](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd*, WIPO Case No. [D2003-0455](#) and *Belupo d.d. v. WACHEM d.o.o.*, WIPO Case No. [D2004-0110](#)).

That the Respondent has no rights or legitimate interests in the disputed domain name. That, instead, the Respondent is using the disputed domain name for the sole purpose of defrauding the public into providing funds and personal information under the mistaken belief that they are transacting on the Complainant's platform. That this conduct takes place as a consequence of the Respondent's unauthorized use of the Complainant's FUNDBOX trademarks, trade name and former business address, on the website to which the disputed domain name resolves.

That, in relation to the Respondent's use of the Complainant's former business address, the Complainant is the only business registered in the state of Texas under the name "Fundbox", and that the telephone number displayed on the website to which the disputed domain name resolves corresponds to an area code located in New York, instead of Texas where the Respondent allegedly operates.

That the Respondent is not a current or former employee of the Complainant, which proves that the disputed domain name fraudulently trades on the Complainant's goodwill.

That previous panels have held that the use of a domain name for illegal activity can never confer rights or legitimate interests to a respondent (and cites *International SA v. brandon gill*, WIPO Case No. [D2013-0037](#) and *BlackRock, Inc. v. WhoisGuard Protected, WhoisGuard Inc. / Dexter, Black Rock Invest*, WIPO Case No. [D2020-0277](#)).

That the Respondent's offering of goods and services using the Complainant's FUNDBOX trademarks does not constitute a bona fide offering of goods and services that could establish rights or legitimate interests in the disputed domain name (and cites *Bayerische Motoren Werke AG v. Antonio Vernacchia*, WIPO Case No. [D2019-0558](#)).

That there is no evidence in the present case or in the disputed domain name's Whois information that could suggest that the Respondent is commonly known as the disputed domain name, nor that such evidence could exist, given the Respondent's fraudulent operations and attempts to pass off as the Complainant (and cites *Bayerische Motoren Werke AG v. Antonio Vernacchia*, *supra*).

That, considering the notoriety of the Complainant's FUNDBOX trademarks and the fact that the Respondent does not have rights, it is clear that the Respondent did not register the disputed domain name for any legitimate or fair use purpose other than to misleadingly divert Internet users to the deceptive website to which the disputed domain name resolves.

III. Registered and Used in Bad Faith

That the disputed domain name was registered and is used in bad faith by the Respondent, based on the fact that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the infringing website to which the disputed domain name resolves, by creating a likelihood of confusion with the Complainant.

That the Respondent had knowledge of the Complainant's rights while registering the disputed domain name, which happened well over a decade after the Complainant started using its FUNDBOX trademarks, and that the Respondent used the disputed domain name to create a counterfeit website which mimics the Complainant's official website, which unequivocally demonstrates that the Respondent had knowledge of the Complainant's rights (and cites *MasterCard International Incorporated v. North Tustin Dental Associates*, WIPO Case No. [D2007-1412](#); *Mastercard International Incorporated v. Total Card Inc.*, WIPO Case No. [D2007-1411](#); *Audi AG v. Claus Lhinder*, WIPO Case No. [D2016-1579](#) and *Aspen Holdings Inc. v. Rick Natsch, Potrero Media Corporation*, WIPO Case No. [D2009-0776](#)).

That the fact that the disputed domain name has incorporated entirely the Complainant's FUNDBOX trademarks, and the fact that the website to which the disputed domain name resolves displays the Complainant's former business address, demonstrate the Respondent's bad faith in registering and using the disputed domain name (and cites *Lloyds Bank Plc v. Marc Wiese*, WIPO Case No. [D2015-0914](#)).

That the Respondent is using the disputed domain name to exploit the goodwill of the Complainant's FUNDBOX trademarks to deceive and defraud consumers into providing funds and personal information in a clear scam operation, posing as the Complainant to fraudulently obtain users' personal and financial information (and cites *RapidShare AG and Christian Schmid v. majeed randi*, WIPO Case No. [D2010-1089](#)).

That the Complainant's online search did not reveal any information that could suggest that the Respondent is operating a business in Texas (the same state in which the Complainant does business) and that the Respondent did not receive any authorization or license to use the Complainant's FUNDBOX trademarks or to register the disputed domain name.

That the Complainant sent a cease-and-desist letter to the Respondent on August 22, 2024, regarding the Respondent's use of the Complainant's FUNDBOX trademarks and that no response was received, which evidences the Respondent's fraudulent intent and bad faith in using the disputed domain name.

That, considering that the Respondent registered the disputed domain name with knowledge of the Complainant's FUNDBOX trademarks, to direct Internet traffic to the website to which the disputed domain name resolves, for financial benefit, by creating a likelihood of confusion with the Complainant's FUNDBOX trademarks, it is clear that the Respondent registered and is using the disputed domain name 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 sets out the three requirements that the Complainant must prove in order to successfully request remedies:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark to which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in connection to the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

Given the Respondent's default and therefore, failure to specifically address the case merits as they relate to the three UDRP elements, the Panel may decide this proceeding based on the Complainant's undisputed factual allegations under paragraphs 5(f), 14(a), and 15(a) of the Rules (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#); *Encyclopaedia Britannica, Inc. v. null John Zuccarini, Country Walk*, WIPO Case No. [D2002-0487](#); see also [WIPO Overview 3.0](#), section 4.3).

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 3.0](#), section 1.7.

The Complainant has shown rights in respect of the FUNDBOX trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name entirely comprises the Complainant's FUNDBOX trademarks, plus the term "inc". The Panel finds that the Complainant's FUNDBOX trademarks are recognizable within the disputed domain name. [WIPO Overview 3.0](#), section 1.7. It is also well established that the addition of a gTLD ".com" is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the disputed domain name is confusingly similar to the Complainant's FUNDBOX trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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. Specifically, the Respondent has failed to submit evidence of bona fide or legitimate noncommercial or fair use of the disputed domain name. No evidence was provided either in connection with the Respondent being commonly known by the disputed domain name.

Panels have held that the use of a domain name for illegal activity such as impersonation or passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. In the present case the Panel notes that the Respondent intended to confuse Internet users into believing that the website to which the disputed domain name resolved to was associated with or sponsored by the Complainant.

According to the unrebutted evidence submitted by the Complainant, the website to which the disputed domain name resolved used the Complainant's FUNDBOX trademark, and supposedly offered financial services similar to the ones that the Complainant offers.

Furthermore, the Panel considers that the composition of the disputed domain name carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Therefore, 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.

The Complainant has ascertained its rights over its FUNDBOX trademarks. The dates of registration of the Complainant's trademarks significantly precede the date of registration of the disputed domain name.

In the present case, the Panel notes that the Respondent has intentionally used the disputed domain name to attract, for commercial gain, Internet users to the website to which the disputed domain name resolved, by creating the impression among Internet users that it was related to, associated with, or endorsed by the Complainant, which conduct constitutes bad faith under paragraph 4(b)(iv) of the Policy (see section 3.1.4 of the [WIPO Overview 3.0](#); see also *trivago GmbH v. Whois Agent, Whois Privacy Protection Service, Inc. / Alberto Lopez Fernandez, Alberto Lopez*, WIPO Case No. [D2014-0365](#); and *Jupiter Investment Management Group Limited v. N/A, Robert Johnson*, WIPO Case No. [D2010-0260](#)).

Previous Panels have held that the use of a domain name for illegal activity, in this case, impersonation and or passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

At the date of writing of this Decision, the disputed domain name does not resolve to an active website. Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the record, the Panel finds that the current non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing his identity or use of false contact details (noted to be in breach of his registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the record, the Panel notes the distinctiveness and reputation of the Complainant's trademarks, and the composition of the disputed domain name, and finds that under the circumstances of this case the current passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Based on the available record, the Panel finds that the Complainant has successfully 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 <fundboxinc.com> be transferred to the Complainant.

/Kiyoshi Tsuru/

Kiyoshi Tsuru

Sole Panelist

Date: February 3, 2025