

## **ADMINISTRATIVE PANEL DECISION**

Fareportal, Inc. v. Alejandro Atanes, Takeoff Flights LLC  
Case No. D2025-0584

### **1. The Parties**

Complainant is Fareportal, Inc., United States of America (hereinafter “United States”), represented by Mitchell, Silberberg & Knupp, LLP, United States.

Respondent is Alejandro Atanes, Takeoff Flights LLC, United States, represented by Peretz Chesal & Herrmann, PL, United States.

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

The disputed domain name <fareporto.com> (hereinafter “Disputed Domain Name”) 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 13, 2025. On February 14, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On February 14, 2025, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on February 17, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on February 19, 2025.

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 Respondent of the Complaint, and the proceedings commenced on February 24, 2025. In accordance with the Rules, paragraph 5, and following an extension request, the due date for Response was March 20, 2025. Respondent sent email communications to the Center on several occasions in February and March 2025. The Response was filed with the Center on March 25, 2025.

The Center appointed Lawrence K. Nodine as the sole panelist in this matter on April 4, 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.

On April 22, 2025, the Panel issued a Procedural Order requesting that Complainant provide an amended Complaint that correctly identifies the Registrar.

On April 24, 2025, Complainant filed an amended Complaint that correctly identified GoDaddy.com LLC as the Registrar.

On April 29, 2025, Respondent submitted an email stating that it had no comments regarding the Amended Complaint that Complainant filed in response to the Procedural Order.

#### **4. Factual Background**

Since 2002 Complainant has used the trademark FAREPORTAL (hereinafter the “Mark”) in connection with a database and software related to travel booking services offered to others, including related companies. Complainant owns United States Trademark Registration No. 4,356,358 (registered June 25, 2013) for the Mark.

Complainant owns the domain “www.fareportal.com” which resolves to a website where Complainant promotes its services. Complainant does not itself offer travel booking services via this website, but it links to websites owned by related companies—CheapOair (located at “www.cheapoair.com”) and OneTravel (located at “www.onetravel.com”)—that offer booking services.

Respondent registered the Disputed Domain Name on August 24, 2022. On the same day, Respondent filed fictitious name registrations for FARE PORTO and FARE Puerto with the Florida Secretary of State. In September 2022, the website associated with the Disputed Domain Name (hereinafter “Disputed Website”) became available to Internet users. On the website, Respondent offers travel booking services allowing Internet users to research and purchase travel products such as airline tickets.

#### **5. Parties’ Contentions**

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

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

Notably, Complainant contends that the Disputed Domain Name is identical to its Mark; that Respondent’s services directly compete with its services; that Respondent infringes its trademark rights; that some of Respondent’s customers have submitted complaints to consumer advocates such as the Better Business Bureau (BBB); that Respondent cannot plausibly deny that it was aware of Complainant’s rights when it registered the Disputed Domain Name; that under United States law Respondent had constructive knowledge of Complainant’s rights; and that the Disputed Domain Name’s Website is so similar to Complainant’s website that bad faith copying may be inferred.

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

Respondent contends that Complainant has not satisfied all three of the elements required under the Policy for a transfer of the Disputed Domain Name. In particular, Respondent contends that the Disputed Domain Name is not confusingly similar to the Mark; that Respondent’s services are different from Complainant’s, emphasizing that Complainant does not itself offer travel booking services under the Mark; that Respondent

began offering bona fide travel booking services since 2022, which was before the it received notice of this dispute; and that it was not aware of Complainant's rights when its registered the Disputed Domain Name; that Complainant has not offered any evidence that it was well known in 2022 when Respondent registered the Disputed Domain Name; that Respondent registered the Disputed Domain Name based on the descriptive meaning of "porto"; that constructive notice is insufficient to support a finding of bad faith registration; and that consumers have submitted BBB complaints about Complainant and that the New York Attorney General as secured USD 2.3 million sanction against Complainant for deceptive trade practices.

## **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 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.

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 Panel finds the mark is recognizable 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.

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 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 that, before notice to Respondent of the dispute, Respondent began using the Disputed Domain Name in connection with a bona fide offering of goods services. Policy paragraph 4(c)(i) and [WIPO Overview 3.0](#), section 2.2. Respondent began offering travel booking services to Internet customers in September 2022. There is no evidence that Respondent received notice of the dispute before the commencement of these proceedings February 24, 2025, which was more than two years after the Disputed Website became available to Internet users in September 2022. The Panel also finds in the next section that Complainant did not submit any evidence that the Mark was well known in August 2022 when Respondent registered the Disputed Domain Name. This finding further supports the Panel's finding that Respondent had no notice of this dispute before commencement of these proceedings.

Complainant submitted evidence that some of Respondent's customers had submitted negative reviews and complaints to BBB organizations. This evidence does not persuade the Panel that Respondent's business is a fraudulent scam. Although several customers used the words "scam" and "fraud" in their initial BBB

complaints, the submitted evidence also shows that many (44 of 51) of these complaints were “closed” by the BBB. The evidence does not explain what “closed” means, but implies a response by Respondent. Moreover, Respondent submits evidence that consumers have submitted similar complaints about Complainant.

The phrase “bona fide” in Policy 4(c)(i) means “good faith,” but its function is primarily to distinguish “real” businesses from fictitious businesses created by cybersquatters to hide their true intent. Ironically, the BBB complaints show that Respondent is in fact engaged in a real business complete with some customers who are dissatisfied. In this sense, the BBB complaints demonstrate that Respondent’s business is not a pretext to veil cybersquatting. As the Panel observed in *Liquid 2D Inc. v. Domains By Proxy, LLC / Schergeil Parvez / Cust Dom*, WIPO Case No. [D2017-2139](#):

“[ . . . ] [T]he Panel accepts that there is material in the public domain that is highly critical of the Respondent and its services. However, that evidence affirms that the Respondent is indeed operating a business, whether or not to general acclaim. [ . . . ] In the view of the Panel, the question of whether the Respondent is offering bona fide services is not addressed to the quality or otherwise of those services, but merely to the issue of whether the business is a sham and a pretext for an improper registration. On the balance of the evidence in this case, the Panel does not find the Respondent’s business to be a sham and considers it to constitute a bona fide offering of goods or services for the purposes of the Policy.”

The Panel is aware of Complainant’s contention that that Respondent’s use of the Disputed Domain Name infringes Complainant’s rights in its registered trademark. A United States court may or may not find Complainant’s contention valid, but Respondent has rebutted the claims made against it.

The Panel finds the second element of the Policy has not been established.

### **C. Registered and Used in Bad Faith**

The evidence in the case file as presented does not indicate that Respondent’s aim in registering the Disputed Domain Name was to profit from or exploit Complainant’s trademark.

The Panel is not able to find on the evidence presented that Respondent registered the Disputed Domain Name in bad faith targeting of Complainant or its trademark rights. Complainant did not offer any evidence in support of its contention that the Mark was well known in August 2022 when Respondent registered the Disputed Domain Name. Under these circumstances, constructive knowledge is insufficient to support a finding that Respondent was aware of Complainant’s rights. [WIPO Overview 3.0](#) section 3.2.2. The Panel has compared the parties’ evidence comparing the respective websites, and notes that although there is a very small degree of passing similarity in the logos, Complainant does not provide booking services on its site, but it rather hosts a corporate home page listing its various entities; on the other hand, Respondent purports to offer booking services – in sum, the sites cannot be said to have anything remotely resembling the same look and feel. The Panel is not persuaded by Complainant’s contention that the websites and logos are so similar that bad faith copying may be inferred. Furthermore, although the Mark may be considered suggestive, it has descriptive connotations. Respondent seeks to invoke a different descriptive meaning, namely: portal or harbor, in the sense of a doorway into a space where information about fares may be found. The Panel cannot say, based on the balance of probabilities, that Complainant has proved that Respondent registered the Disputed Domain Name in bad faith under the terms of the Policy.

The Panel finds the third element of the Policy has not been established.

## **7. Decision**

For the foregoing reasons, the Complaint is denied.

*/Lawrence K. Nodine/*

**Lawrence K. Nodine**

Sole Panelist

Date: May 7, 2025