

ADMINISTRATIVE PANEL DECISION

Educational Testing Service v. Ali Haider, Toefl
Case No. D2025-0733

1. The Parties

The Complainant is Educational Testing Service, United States of America (“United States”), represented by Cantor Colburn LLP, United States.

The Respondent is Ali Haider, Toefl, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <testtoefl.org> is registered with Porkbun LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 21, 2025. On February 24, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 25, 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 (“REDACTED FOR PRIVACY, Private by Design, LLC”) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 25, 2025, 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 amendment to the Complaint on February 25, 2025.

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 5, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 25, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 31, 2025. Thereafter, the Respondent sent an informal email communication to the Center on March 31, 2025.

The Center appointed Oleksiy Stolyarenko as the sole panelist in this matter on April 14, 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 Educational Testing Service, a non-profit corporation organized under the laws of the State of New York, United States, and headquartered in Princeton, New Jersey. The Complainant is one of the world's largest private educational testing and assessment organization. Established in 1947, the Complainant develops and administers over 50 million tests annually in more than 180 countries. Among its most well-known assessments is the TOEFL iBT test, which measures the English-language proficiency of non-native speakers and is accepted by over 12,500 institutions in more than 160 countries for academic admissions purposes.

The Complainant has rights over the TOEFL mark registered in numerous jurisdictions worldwide, including the following:

- United States Registration No. 1103427 for TOEFL registered on October 3, 1978 for services in class 41;
- EU Registration No. 000013839 for TOEFL registered on January 5, 1999 for products and services in classes 9, 16, 41, 42;
- United Kingdom Registration No. UK00900013839 for TOEFL registered on January 5, 1999 for products and services in classes 9, 16, 41, 42.

In addition, the Complainant is the owner of a large portfolio of TOEFL and TOEFL-formative trademarks globally and operates its official website at the domain name <ets.org>, including the TOEFL-specific page "www.ets.org/toefl".

The TOEFL mark is used in connection with educational testing services and the issuance of testing certifications and has been intensively and continuously used by the Complainant since 1964. The Complainant's TOEFL brand is widely recognized and has acquired considerable goodwill and reputation worldwide.

The disputed domain name <testtoefl.org> was registered on January 21, 2025. According to the evidence provided by the Complainant, the Respondent uses the disputed domain name for a website imitating the Complainant's legitimate platforms, prompting users to enter login credentials for TOEFL and GRE accounts. The website states Copyright © 2025 by Educational Testing Services, and prominently displays TOEFL and ETS logos.

According to the Registrar information, the Respondent is an individual located in London, United Kingdom.

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 asserts that it has established rights in the TOEFL trademark through longstanding and continuous use in commerce since 1964, as well as through multiple trademark registrations in the United States and other jurisdictions worldwide. The TOEFL mark is distinctive and well-known in connection with English-language assessment and educational testing services. The Complainant is the developer and

administrator of the TOEFL iBT test, which is recognized globally and used by over 12,500 institutions in more than 160 countries.

The Complainant holds numerous United States trademark registrations for the TOEFL mark and related formative marks, including incontestable registrations dating back to 1978. It submits that these registrations establish conclusive evidence of the validity and exclusive ownership of the TOEFL mark under U.S. trademark law and in multiple jurisdictions worldwide.

The disputed domain name <testtoefl.org> incorporates the Complainant's TOEFL mark in its entirety, with the addition of the descriptive term "test" and the generic top-level domain ("gTLD") ".org." The Complainant argues that this additional term does not prevent a finding of confusing similarity. Instead, the disputed domain name appears to describe or promote TOEFL testing services and is therefore likely to mislead consumers into believing it is affiliated with or endorsed by the Complainant.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has not authorized the Respondent to use the TOEFL mark and is not aware of any relationship between the parties. The Respondent is not commonly known by the disputed domain name, nor is there any evidence of bona fide use. Rather, the disputed domain name resolves to a deceptive website imitating an official Complainant's login page, prompting users to submit their TOEFL or GRE credentials. The Complainant believes that the site is being used for phishing and credential harvesting purposes.

The Complainant asserts that the disputed domain name was registered and is being used in bad faith. Given the fame of the TOEFL mark and the nature of the website content, the Complainant submits that the Respondent was clearly aware of the Complainant's rights at the time of registration. The Complainant argues that the disputed domain name was registered to intentionally attract users for commercial gain by creating a likelihood of confusion with the TOEFL mark. The use of the disputed domain name to mimic the Complainant's systems and solicit user credentials constitutes not only an infringement of trademark rights but also evidence of fraudulent and malicious intent.

Accordingly, the Complainant seeks a decision that the disputed domain name <testtoefl.org> be transferred to the Complainant.

B. Respondent

The Respondent did not submit a formal response to the Complainant's contentions; however, the Respondent sent correspondence indicating a willingness to voluntarily transfer the disputed domain name to the Complainant.

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.

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. The Panel agrees with the Complainant that the disputed domain name <testtoefl.org> features the

Complainant's TOEFL trademark in its entirety, preceded by the descriptive term "test." The TOEFL mark remains clearly recognizable within the disputed domain name. The addition of the word "test" — which is descriptive and directly related to the Complainant's services — does not avoid a finding of confusing similarity.

Domain names that wholly incorporate a complainant's registered trademark, particularly with the addition of descriptive terms, are routinely found to be confusingly similar under the first element. [WIPO Overview 3.0](#), section 1.8.

The gTLD ".org" is viewed as a standard registration requirement and is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that 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.

According to the Complainant, the Respondent is not authorized or licensed to use the TOEFL trademark in the disputed domain name.

Moreover, given that the disputed domain name incorporates the Complainant's well-known TOEFL trademark in its entirety along with a descriptive term ("test"), the Panel struggles to conceive any legitimate interests of the Respondent in the disputed domain name.

Taking into account the reputation and long-standing use of the Complainant's TOEFL trademark and corresponding website, and in the absence of evidence to the contrary, the Panel finds that the Respondent is not involved in a bona fide offering of goods or services (under paragraph 4(c)(i) of the Policy), and that the Respondent's activities do not constitute a legitimate noncommercial or fair use (under paragraph 4(c)(iii) of the Policy).

The Panel did not find any evidence that the Respondent is commonly known by the disputed domain name and concludes that the Respondent is not commonly known by the disputed domain name under paragraph 4(c)(ii) of the Policy. The use of the term "Toefl" as part of the registration details for the disputed domain name does not alter the Panel's finding in this regard.

Panels have held that the use of a domain name for impersonation/passing off, phishing, or other types of fraud 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 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.

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.

As the Panel has established above, the Complainant's TOEFL trademark has been in use in commerce since 1964 and is registered in multiple jurisdictions, including in the United Kingdom, where the Respondent is located. These rights predate the registration of the disputed domain name <testtoefl.org> by several decades.

Previous UDRP panels have acknowledged that the incorporation of a well-known mark, particularly in combination with descriptive terms such as "test," may strongly indicate the respondent's awareness of the complainant's rights. The Panel finds that the TOEFL mark is well-known, inherently distinctive and enjoys widespread international recognition in the field of educational testing services.

The Panel therefore finds with a high degree of certainty that the Respondent was aware of the Complainant's TOEFL trademark when registering the disputed domain name. This is supported by the Respondent's selection of <testtoefl.org>, which fully incorporates the Complainant's trademark and adds only a generic, descriptive term related to the Complainant's services. Such registration long after the Complainant's rights were established reinforces the inference of bad faith.

Furthermore, the Respondent has not submitted a response to rebut the Complainant's allegations or to demonstrate any good faith use or legitimate interest. On the contrary, the evidence on record shows that the disputed domain name resolved to a deceptive website that imitated the Complainant's legitimate TOEFL or GRE login portals and solicited users' credentials. The Panel finds that such conduct reflects an intent to impersonate or pass off as the Complainant, disrupt its business, and possibly engage in phishing or credential harvesting.

Panels have held that the use of a domain name for illegitimate activity — such as phishing, impersonation/passing off, or other types of fraud — 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 <testtoefl.org> be transferred to the Complainant.

/Oleksiy Stolyarenko/

Oleksiy Stolyarenko

Sole Panelist

Date: April 28, 2025