

ADMINISTRATIVE PANEL DECISION

Terex GB Limited v. Stanley Pace
Case No. D2025-1762

1. The Parties

The Complainant is Terex GB Limited, United Kingdom (“U.K.”), represented by Brooks Kushman, P.C., United States of America (“U.S.”).

The Respondent is Stanley Pace, U.S., represented by John Berryhill, Ph.d., Esq., U.S.

2. The Domain Name and Registrar

The disputed domain name <finlay.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 May 1, 2025. On May 2, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name.

The Center sent an email communication to the Complainant on May 5, 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 amended Complaint also on May 5, 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 the Respondent of the Complaint, and the proceedings commenced on May 7, 2025. In accordance with the Rules, paragraph 5, the due date for Response was May 27, 2025. On May 22, 2025, the Respondent’s counsel requested the four-day extension under the Rules. The Center replied on May 23, 2025, confirming the automatic four calendar day extension, due on May 31, 2025. The Response was filed with the Center on May 31, 2025.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on June 11, 2025.

On June 13, 2025, the Complainant submitted an unsolicited Supplemental Filing.

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 manufacturer of lifting and material processing equipment for industries such as mining, quarrying, and construction, located in the U.S. and incorporated under the laws of Delaware.

The Complainant owns the FINLAY trademark, originated adopted in 1958 by Finlay Hydrascreens in Northern Ireland. Finlay Hydrascreens became part of the Complainant's group in 1999 following the acquisition of Powerscreen International plc. The Complainant is the owner of the following trademark registrations:

- U.K. trademark registration No. UK00002480281, for the word mark FINLAY, filed on February 20, 2008, and registered on July 4, 2008, subsequently renewed, in International Class 7;
- U.S. trademark registration No. 3601191, for the word mark FINLAY, registered on April 7, 2009, claiming first use in January 1967 and first use in commerce in the U.S. in August 1977, subsequently renewed, in International Class 7;
- Australia trademark registration No. 1225049, for the word mark FINLAY, filed on February 18, 2008, and registered on October 19, 2009, subsequently renewed, in International Class 7; and
- European Union trademark registration No. 017980841, for the word mark FINLAY, filed on November 5, 2018, and registered on September 3, 2022, in International Class 7.

The disputed domain name was registered on April 25, 1995, and originally used by The Finlay Brothers Printing Company, in connection with its commercial printing operations (Annex 9 to the Complaint), until the business ceased operations around 2012 (Annexes 10 and 11 to the Complaint). Public records show that on June 5, 2013, the disputed domain name was sold for USD 2,599.00 (Annex 12 to the Complaint), having been acquired by the Respondent, a domain investor.

The Respondent, Stanley Pace, is a domain investor.

Presently, the disputed domain name resolves to a parked webpage displaying pay-per-click ("PPC") links.

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 to own common law rights in the FINLAY trademark in the U.S. and other jurisdictions dating back to at least 1977, having, since then the FINLAY trademark become widely known in the construction, quarrying, and mining industries as a source of high-quality mobile crushing, screening, and conveying equipment; also having the Complainant and its predecessors extensively marketed, advertised, and sold FINLAY-branded equipment through distributors, trade shows, industry publications, and marketing materials, resulting in substantial goodwill and recognition in the FINLAY trademark among U.S. and global consumers.

According to the Complainant, the disputed domain name fully incorporates its FINLAY trademark, being likely to cause confusion and to lead consumers to mistakenly believe that the disputed domain name is affiliated with or sponsored by the Complainant.

Furthermore, the Complainant asserts that the Respondent relies upon users searching for information and materials related to the Complainant's FINLAY products to be mistakenly diverted to the Respondent's website, a parked webpage featuring PPC links (Annex 7 to the Complaint), what increases the risk of confusion regarding the origin, sponsorship, or endorsement of the Respondent's website.

Under the Complainant's view the Respondent has no rights or legitimate interests in respect of the disputed domain name given that:

- i. the website available at the disputed domain name consists of a parked webpage displaying PPC links, including links that reference the Complainant's industry and products;
- ii. the Respondent does not use, and has not made demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services under the Policy
- iii. the disputed domain name is a name by which the Respondent is not commonly known as an individual, business, or other organization, nor has the Respondent applied for or registered any trademark, service mark or trade name for or consisting of "Finlay"; and
- iv. the Respondent is not affiliated with the Complainant, also not having the Respondent been authorized to use the disputed domain name, or to display the FINLAY trademark on the webpage associated with the disputed domain name.

Lastly, the Complainant sustains that although the disputed domain name was originally created in 1995 and initially used for a legitimate business purpose, it was re-registered in bad faith in 2013 when it was acquired by the Respondent, a domain investor and used to host PPC links, who has been named respondent in dozens of UDRP proceedings, the majority of which have resulted in findings of bad faith registration and use. The Complainant further asserts that the Respondent registered and is using the disputed domain name in view of its inherent trademark value and is passively holding it for speculative PPC monetization what characterizes bad faith and commercial gain.

On June 13, 2025, the Complainant submitted an unsolicited Supplemental Filing to address "several factual assertions and legal arguments raised for the first time in the Respondent's Answer" which can be summarized as follows:

- the Respondent argues that he has a legitimate interest in the disputed domain name solely because "Finlay" is a common surname and aligns with his practice of acquiring surname domains: however, the fact that a term is a surname or used by other businesses is not, by itself, sufficient, there being a need to assess the broader circumstances surrounding the registration and use of the disputed domain name, including whether the respondent is genuinely using the disputed domain name in connection with a good faith offering of goods or services, not merely holding it for commercial gain derived from a trademark meaning;
- to the extent that the disputed domain name represents a surname, it is not the Respondent's own name, the Respondent is not commonly known by such name, nor is the Respondent making a legitimate noncommercial or fair use of the disputed domain name, rather using it for speculative purposes, not for any genuine surname-based use;
- professional domain investors are held to a higher standard under the UDRP and are expected to avoid registrations that correspond to third-party trademarks, even if the term has other meanings (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), Section 3.2.3);

- given the Respondent's sophistication and extensive portfolio of surname-based domains acquired for resale or PPC monetization, it is reasonable to infer that he either knew of the Complainant's mark or should have known of it at the time of acquisition;
- this is a case of opportunistic domain investment, where the registrant targets the goodwill of multiple brands sharing the same term, regardless of who currently holds trademark rights;
- the Respondent's broader pattern of such conduct further supports a finding of bad faith under the Policy; and
- the doctrine of laches does not apply under the UDRP, and that delay alone is not a defense to a claim of abusive registration, rather having the Complainant acted promptly once it discovered that the disputed domain name was being used in a manner that implicated its trademark rights (PPC content related to industrial screening equipment, directly overlapping with the Complainant's core business).

B. Respondent

In its Response, the Respondent contends the following:

This dispute concerns a common widely-used surname and business name obtained subsequent to its expiration by a defunct business, having been acquired at a substantial cost in an auction of abandoned domain names in 2013 to be added to the Respondent's substantial portfolio of surname and personal name domain names. Indeed, the Respondent has been recognized as in fact specializing in such domain names in prior proceedings, and it is by now widely recognized that trading in common words and names is a legitimate enterprise.

The Respondent disputes that the Complainant's FINLAY product is not as well-known as the Complainant's TITAN mining trucks, and certainly unknown to general consumers and Internet users, not having the Complainant produced evidence of actual sales of any products bearing such mark. In addition to that, the Respondent points out that, in the U.S., the Complainant holds one of five registered marks comprising "FINLAY" (Exhibit A to the Response), whereas internationally, there are more than a dozen other owners of "FINLAY" registered marks, including in the U.K. (Exhibit B to the Response), rather showing that the Complainant's FINLAY trademark refers to mineral processing apparatus known only in a highly specialized industrial market.

As to his legitimate rights or interest, the Respondent argues that "Finlay" is a relatively common surname (there being hundreds of individuals whose surname or first name is "Finlay" – Exhibit C to the Response) and that the Complainant's trademark relates to a specialized rock crushing equipment, there being no reason to believe that any member of the general population outside of a specialized technical industrial market would have ever heard of the Complainant's FINLAY trademark.

The Respondent claims that nothing would indicate that he would have been aware of the Complainant's trademark upon registering the disputed domain name in 2013, there being hundreds of companies named "Finlay" from every field of human endeavour - construction, software, manufacture, apparel, jewellery, beverages, medicine, law, healthcare (Exhibits D and E to the Response).

Furthermore, the Respondent indicates the following domain name disputes relating to domain names that also consisted of other common surnames in which he was not found to be in bad faith: *Rentsch Partner AG v. Domain Hostmaster, Whois Privacy Services Pty Ltd., Customer ID_ 78529104178955 / Stanley Pace*, WIPO Case No. [D2015-2302](#) ("In this case, the Disputed Domain Name consists of a common German surname 'Rentsch' and the pay-per-click links are related to generic job searching websites. Considering this against the background of the Respondent's apparent business in acquiring and using domain names for business purposes over the years, and that there is no evidence of the Respondent intentionally targeting the Complainant and/or its business in using the Disputed Domain Name (in particular, the Panel notes that the Complainant has provided little evidence of the reputation of its mark outside of Switzerland, and Rentsch is

a common surname in Germany, Switzerland, and parts of Eastern Europe), the Panel considers the Complainant has failed to establish that the Respondent lacks rights or legitimate interests in the Disputed Domain Name"); *Reindl Gesellschaft m.b.H. v. Stanley Pace*, WIPO Case No. [D2019-0160](#) ("Accordingly, the Panel does not accept that there is any evidence which would lead to a finding that the Respondent knew of the Complainant when he registered the Disputed Domain Name. The Panel's assessment takes into account that professional dealers in domain names may be held to a higher standard to avoid the registration of trademark-abusive domain names as stated at section 3.2.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ('[WIPO Overview 3.0](#)'). The Panel sees no reason to doubt the Respondent's case that the fact that 'reindl' is a dictionary word in German, and a surname used by persons in the US and elsewhere, meant it had an intrinsic value, which was why the Respondent registered it. Accordingly, the Panel can see no basis on the evidence before it for concluding that the Respondent targeted or would have been reasonable aware of the Complainant's trademark, also noting the other meanings of the word 'Reindl', so as to support a finding of bad faith.").

As to the PPC links, the Respondent contends that the overwhelming majority of links relates to the art and other creative works, most likely associated with a Scottish artist by the surname "Finlay" as the principal economic driver of the PPC system, also stating that "Certainly, once this Proceeding is concluded, the Respondent intends to remove the domain name from automated PPC, but for the time being the domain is being left as-is, to avoid the common accusation that any change is the result of an attempted coverup."

In sum, the Respondent disputes that the appearance of one questionable link from an automated system - many years after the registration of the disputed domain name would hardly be probative of the legitimate interest the Respondent had in adding another surname domain to his substantial portfolio of such names upon the abandonment thereof by a prior registrant. The Respondent thus submits that in consideration of all evidence it should be fairly obvious his reason for having been motivated to add the disputed domain name to his portfolio of common personal or surname domains in which the Respondent trades, and not with a bad faith intent arising from the Complainant's trademark.

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

As described above, the Complainant submitted an unsolicited supplemental filing in reply to the Response. Unsolicited supplemental filings are generally discouraged, unless specifically requested by the panel. [WIPO Overview 3.0](#), section 4.6. The Panel notes the Response put forward aspects of the Respondent's business practices, particularly regarding investment in personal name and surname domain names, that may not have been readily known by the Complainant when submitting the Complaint. Accordingly, the Panel will exceptionally accept the supplemental filing. However, the Panel notes that the acceptance of such has not altered the outcome of the decision.

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 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 identical 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 2.1 of the WIPO Overview states that once a complainant establishes a prima facie case in respect of the lack of rights or legitimate interests of a respondent, the respondent then carries the burden of demonstrating that it has rights or legitimate interests in the domain name. Where the respondent fails to do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Panel accepts that the Respondent is not affiliated with the Complainant, also not having the Respondent been authorized to use the disputed domain name, or to display the FINLAY trademark on the webpage associated with the disputed domain name. Accordingly, the Panel is of the view that a prima facie case has been established and it is for the Respondent to prove he has rights or legitimate interests in the disputed domain name.

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish rights or legitimate interests in the disputed domain name by demonstrating any of the following:

- (i) before any notice to it of the dispute, the Respondent's use of, or demonstrable preparations to use the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services; or
- (ii) the Respondent has been commonly known by the disputed domain name, even if he has acquired no trade mark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

The disputed domain name currently resolves to a parking page which contains sponsored links, which appear to have recently changed, as discussed by the Parties above. As stated in section 2.6 of the [WIPO Overview 3.0](#), the use of a domain name to parking pages or PPC links “may be permissible in some circumstances, but would not of itself confer rights or legitimate interests arising from a ‘bona fide offering of goods or services’ [...] or from ‘legitimate noncommercial or fair use’ of the domain name, especially where resulting in a connection to goods or services competitive with those of the rights holder.” On the other hand, it has been held in a number of cases that business models relying on PPC parking revenue are not of themselves objectionable unless tainted by evidence of bad faith, see for example, *Nursefinders, Inc. v. Vertical Axis, Inc / NURSEFINDER.COM c/o Whois Identity Shield*, WIPO Case No. [D2007-0417](#) and *Super Supplements, Inc. v. Vertical Axis, Inc.* WIPO Case No. [D2008-0244](#).

In this case, the disputed domain name consists of a common surname “Finlay”, and for most of the 12 years since its acquisition/registration by the Respondent, the PPC links have not referred to the Complainant’s trademark or business, with only one recent link relating to the Complainant’s business. Taking this into account, along with the Respondent’s apparent history of acquiring and using domain names for business purposes, and the absence of evidence that the Respondent intentionally targeted the Complainant and/or its business when registering the disputed domain name (noting in particular that the Complainant has provided little evidence of the reputation of its mark, and that “Finlay” is a common surname), the Panel considers that the Complainant has failed to establish that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Panel accordingly finds that the Complainant has not satisfied paragraph 4(a)(ii) of the Policy in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The evidence in the case file as presented does not indicate that the Respondent's aim when registering the disputed domain name was to profit from or exploit the specific Complainant's trademark.

The Respondent has demonstrated that there are numerous potential legitimate users of the "Finlay" name and mark. Although the Respondent does not claim "Finlay" as his own name or trademark, he has submitted evidence of owning a significant portfolio of domain names consisting of common personal names and surnames.

While the Complainant correctly indicates that domainers or domain name investors are generally held to a higher standard of due diligence when acquiring domain names, the Respondent has shown that the Complainant's trademark relates to very specific equipment that is not widely known to the general public.

Accordingly, the Panel finds that the disputed domain name was not registered in bad faith.

Based on the available record, the Panel finds that the Complainant has not established the third element of the Policy.

D. Reverse Domain Name Hijacking

Although the Respondent did not expressly request a finding a reverse domain name hijacking ("RDNH"), noting the above findings the Panel will consider whether such a finding is appropriate pursuant to paragraph 15(e) of the Rules. On balance, the Panel declines to make a finding of RDNH in this case. At the time of filing the Complaint, the Complainant had a good faith basis to be concerned upon observing its trademark being used in connection with a domain name serving PPC advertising operated by a Respondent who had previously been found to have acted in bad faith in other UDRP proceedings. The clarification provided by the Respondent during this proceeding - namely, that the display of a single link relating to the Complainant's business was recent and automated, and his domain name portfolio practices - does not negate the bona fides of the Complainant's initial concerns.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Sole Panelist

Date: June 25, 2025