ARBITRATION
AND
MEDIATION CENTER

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

ADMINISTRATIVE PANEL DECISION
Flex IT Holding B.V. v. David Game
Case No. D2026-3713

1. The Parties

The Complainant is Flex IT Holding B.V., Netherlands (Kingdom of the), represented by Eversheds Sutherland (Netherlands) B.V., Netherlands (Kingdom of the).

The Respondent is David Game, United States of America ("United States").

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on August 12, 2026. On August 20, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 21, 2026, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 August 25, 2026. In accordance with the Rules, paragraph 5, the due date for Response was September 14, 2026. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 15, 2026.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on September 17, 2026. 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 Netherlands (Kingdom of the)-based company specializing in IT solutions for the business market and has, amongst others, operated under the trade name Flex IT Distribution since 2017. The Complainant's official website is available at the domain name <flexitdistribution.com>.

The Complainant's <flexitdistribution.com> domain name was registered on February 12, 2018, and the Complainant is the owner, amongst others, of the following trademark registrations (Annex 6 to the Complaint):

- European Union trademark registration No. 017895852 for the word and device mark FLEX IT DISTRIBUTION, filed on May 4, 2018, and registered on December 21, 2018, in classes 9, 35, 36, 37, 39, 41 and 42;

- United Kingdom trademark registration No. UK00917895852 for the word and device mark FLEX IT DISTRIBUTION, filed on May 4, 2018, and registered on December 21, 2018, in classes 9, 35, 36, 37, 39, 41 and 42; and

- European Union trademark registration No. 018434679 for the word and device mark FLEX IT, filed on March 23, 2021, and registered on July 8, 2021, in classes 9, 35, 37, and 42.

The disputed domain name was registered on July 29, 2026, and presently does not resolve to an active webpage. A customer of the Complainant received fraudulent email messages impersonating the Complainant from an email address using the disputed domain name on July 29, and 30 2026 (Annex 3 to the Complaint).

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 identically incorporates the Complainant's FLEX IT DISTRIBUTION trademark and is confusingly similar therewith, specially given the impersonation of the Complainant perpetrated by the Respondent via emails sent from an email address using the disputed domain name.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name given that the Respondent has not been authorised by the Complainant to register or use the disputed domain name, nor is the Respondent, or any entity affiliated with the Respondent, in any way connected with the Complainant. Furthermore, the use of domain names for illegitimate or unlawful purposes, including the impersonation of a complainant and the operation of fraudulent email schemes, can never confer rights or legitimate interests on a respondent. Moreover, the Respondent is merely passively holding the disputed domain name, whilst using an associated email address as part of a fraudulent campaign, which can neither constitute a bona fide offering of goods or services nor amount to a legitimate noncommercial or fair use of the disputed domain name within the meaning of paragraph 4(c)(i) of the Policy. Lastly, the Respondent is not commonly known by the disputed domain name and is not making a legitimate noncommercial or fair use of the disputed domain name.

The Complainant further asserts that the registration of the disputed domain name was done clearly in bad faith given the full knowledge of the Respondent in the Complainant's trademark, clearly depicted on the emails exchanged with a customer of the Complainant and attempting to induce payments to a different bank account (Annex 3 to the Complaint) thus creating a likelihood of confusion and disrupting the Complainant's business.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth the following three requirements, which have to be met for this Panel to order the transfer of the disputed domain name to the Complainant:

(i) the disputed domain name is identical or confusingly similar to a 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.

Section 4.3 of the WIPO Overview of WIPO Panel Views on Select UDRP Questions ("WIPO Overview 3.1") states that a respondent's default (i.e., failure to submit a formal response) would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true.

The Complainant must prove in this administrative proceeding that each of the aforesaid three elements is present in order to obtain the transfer of the disputed domain name.

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 3.1, section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. WIPO Overview 3.1, section 1.2.1.

The Panel finds the FLEX IT DISTRIBUTION 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 3.1, section 1.9. The disputed domain name substitutes the first letter "i" for the letter "l", and thus, is considered a typographical variation of the Complainant's mark. The Panel finds that such substitution does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy, rather characterizing a typical misspelling thereof. WIPO Overview 3.1, sections 1.9.

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 that 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 3.1, 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.

Under the Policy, paragraph 4(a)(ii), the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in the disputed domain name. According to the evidence submitted, the Complainant has made a prima facie case against the Respondent that it has not been commonly known by the disputed domain name and that the Respondent has not been authorized to register or use the disputed domain name.

Moreover, panels have held that the use of a domain name for illegal activity, such as phishing and impersonation or other types of fraud, can never confer rights or legitimate interests on a respondent. WIPO Overview 3.1, section 2.13.1.

Furthermore, the Panel finds the nature of the disputed domain name carries a risk of implied affiliation with the Complainant and supports a finding that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Under paragraph 4(a)(iii) of the Policy, the Complainant must show that the Respondent registered and is using the disputed 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 3.1, section 3.2.1.

In this case, both registration and use of the disputed domain name in bad faith can be found pursuant to the Policy, in view of the fact that the Respondent has registered and used a typo-variant of the Complainant's mark and domain name in to send fraudulent emails impersonating the Complainant as described above seeking to induce the Complainant's customers to pay in a different bank account. Panels have held that the use of a domain name for illegal activity here, claimed phishing and impersonation, constitutes bad faith. WIPO Overview 3.1, section 3.4

For the reasons above, the Respondent's conduct has to be considered, in this Panel's view, as bad faith registration and use of the disputed domain name and the Complainant succeeds under the third element of paragraph 4(a) of 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 <flexltdistribution.com> be transferred to the Complainant.

/Wilson Pinheiro Jabur/
Wilson Pinheiro Jabur
Sole Panelist
Date: September 22, 2026