

## **ADMINISTRATIVE PANEL DECISION**

Mozilla Foundation, Mozilla Corporation v. Lucjan Misiag  
Case No. D2022-1999

### **1. The Parties**

The Complainant is Mozilla Foundation, Mozilla Corporation, United States of America (“United States”), represented by Hogan Lovells (Paris) LLP, France.

The Respondent is Lucjan Misiag, Poland.

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

The disputed domain name <mozilla.com> is registered with Internet Domain Service BS Corp (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 1, 2022. On June 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 3, 2022, 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 June 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 28, 2022. The Respondent sent an informal communication to the Center on June 8, 2022.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on July 5, 2022. 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 Mozilla Foundation is a non-profit organization based in California, United States. The Complainant Mozilla Corporation is Mozilla Foundation's wholly-owned subsidiary. Mozilla Foundation and Mozilla Corporation are hereafter referred to collectively as "the Complainant."

The Complainant is dedicated to promoting the development of the Internet as a free and fair global public resource. The Complainant supports and develops open-source software programs, and is best known for creating the world-renowned Firefox Internet browser. The Complainant's origins date back to 1998, as part of the Netscape browser project. Since the foundation of the Mozilla project and the release of Mozilla 1.0 in 2002, the Complainant has acquired considerable goodwill and renown worldwide in its company name, brands, logos and trademarks, including MOZILLA. Its main website is available at "www.mozilla.org". Mozilla Firefox is a free and open-source web browser developed by the Complainant, with approximately 40% of its code written by its over 1,000 volunteers (or "Mozillians"). The Mozilla Firefox Internet browser was released on November 9, 2004 and enjoyed instant success, with 100 million downloads within the first year of its release. The Firefox Internet browser is available in over 90 languages, with more than 50% of global Firefox users using non-English versions. The Complainant and its Firefox Internet browser have received numerous honours and awards over the past decade.

The Complainant has registered, *inter alia*, the following trademarks:

MOZILLA, (word), European Union Trademark No. 000182899, registered on March 3, 1999;  
MOZILLA (word), United States Trademark No. 2815227, registered on February 17, 2004 (first use in commerce in 1998); and  
MOZILLA (word), International Trademark No. 974622, registered on August 13, 2008.

The Complainant is the registrant of many domain names consisting of the term MOZILLA, under a wide range of generic Top-Level Domains ("gTLDs"), including <mozilla.com> (since 1994), <mozilla.org> (since 1998), <mozilla.net> (since 1998), as well as under numerous country code Top-Level Domains ("ccTLDs").

The Complainant also has a strong online presence of Mozilla as a result of being active on various social media forums such as Facebook, Twitter, Instagram and LinkedIn.

The disputed domain name was initially registered on May 3, 2002. However, according to the documents filed by the Complainant, it appears that the registrant details changed on June 12, 2014.

According to the evidence filed by the Complainant, the disputed domain name previously (May 13, 2022) redirected to various websites including, amongst others, websites containing pay-per-click ("PPC") links featuring keywords such as "Mozilla Firefox", "Firefox Themes" and "Firefox Software". In addition, some of the IP addresses associated with the disputed domain name are also flagged as malicious.

#### 5. Parties' Contentions

The Complainant claims that:

(a) the disputed domain name is confusingly similar to the Complainant's trademark; (b) the Respondent lacks any rights or legitimate rights in the disputed domain name; and (c) the Respondent has registered and is using the disputed domain name in bad faith.

#### B. Respondent

The Respondent did not reply to the Complainant's contentions. Indeed, the Respondent sent an informal communication to the Center on June 8, 2022, solely to ask the Center to resend one of the three emails sent by the Center to notify the commencement of the proceeding (*i.e.* email 2/3 and its annexes), which was

resent on June 9, 2022.

## 6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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.

### A. Identical or Confusingly Similar

The disputed domain name almost contains the MOZILLA trademark in its entirety, except for the addition of the letter “Z” and the omission of the letter “L”. This Panel considers that the substitution of these letters in the disputed domain name can be regarded as typosquatting. In any case, it is the Panel’s view that it does not prevent a finding of confusing similarity between the Complainant’s trademark and the disputed domain name. The Complainant’s trademark is in fact still clearly recognizable.

WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 1.9 states: “A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element.”

Furthermore, the applicable gTLD “.com” is viewed as a standard registration requirement and as such may be disregarded under the first element confusing similarity test. Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

### B. Rights or Legitimate Interests

Before the discussion of rights or legitimate interests, the Panel finds convenient to resolve the timeframe of ownership of the disputed domain name, which, according to the Whois database, was first registered on May 3, 2002.

The Complainant has noted and documented that the underlying registrant details were changed in 2014 to a new registrant, and that this was consistent with (i) the Respondent’s statement from June 7, 2016, that he acquired the disputed domain name in 2014 and with (ii) the invoice that the Respondent sent to the Complainant’s lawyers indicating that the disputed domain name was purchased by the Respondent on June 12, 2014 (these elements appear in the documented correspondence exchanged between the Respondent and the Complainant before the commencement of the current proceeding).

The Complainant thus submitted that the transfer of the disputed domain name to the Respondent amounts to a break in the chain of registration, and, as such, the domain name was registered by the Respondent on June 12, 2014. In support of this thesis, the Complainant referred to [WIPO Overview 3.0](#), section 3.9; where “[...] panels have found that the transfer of a domain name registration from a third party to the respondent is not a renewal and the date on which the current registrant acquired the domain name is the date a panel will consider in assessing bad faith. This holds true for single domain name acquisitions as well as for portfolio acquisitions.”

The Panel further notes that – as stated in [WIPO Overview 3.0](#), section 3.9 – in cases where the domain name registration is masked and the complainant credibly alleges that a relevant change in registration has occurred, it would be incumbent on the respondent to provide satisfactory evidence of an unbroken chain of registration; respondents’ failure to do so has led panels to infer an attempt to conceal the true underlying

registrant following a change in the relevant registration. Such an attempt may in certain cases form part of a broader scenario whereby the application of UDRP paragraph 4(b)(iv), read in light of paragraph 4(a)(ii), can support an inference of bad faith registration for the respondent to rebut.

The present Panel agrees with the above and thus in assessing the Respondent's bad faith in registering the disputed domain name will consider the date the Respondent acquired the disputed domain name, *i.e.* June 12, 2014.

This Panel finds that the Complainant has made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Respondent does not appear to be commonly known by the name "mozilla" or by any similar name. The Respondent has no connection to or affiliation with the Complainant and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant's trademarks. The Respondent does not appear to make any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a *bona fide* offering of goods or services. Rather, the typosquatting nature of the disputed domain name reflects the intent of the Respondent to confuse and mislead Internet users unaware of the typographical variation as compared to the Complainant's trademark and domain name <mozilla.com>, an intention to create a likelihood of confusion that arises from the nature of the disputed domain name irrespective of its date of acquisition. Additionally, it appears that the disputed domain name previously redirected to parking pages with PPC links and also to malicious websites. As noted by previous panels, the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users. In addition, the use to distribute malware has categorically been held to never confer rights or legitimate interests upon a respondent. See section 2.13 of the [WIPO Overview 3.0](#). Moreover, the Respondent has not replied to the Complainant's contentions to deny them and/or claim any rights or legitimate interests in the disputed domain name.

The Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

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

The Panel, based on the evidence presented, accepts and agrees with the Complainant's contentions that the disputed domain name was registered and is being used in bad faith.

The Complainant's MOZILLA trademark is a highly distinctive term and has acquired considerable renown and goodwill worldwide as a result of its continuous and extensive use for over 20 years in connection with computer and Internet-related products and services.

The Complainant has documented that though the disputed domain name was initially registered in 2002, the Respondent acquired it on June 12, 2014.

This Panel agrees with the Complainant's and previous panels' opinion that the transfer of a domain name registration from a third party to the respondent is not a renewal and that the date on which the current registrant acquired the domain name is the date a panel will consider in assessing bad faith.

Thus, owing to the substantial presence established by the Complainant worldwide, it is inconceivable that the Respondent was unaware of the Complainant's rights at the time of the registration of the disputed domain name by the Respondent in 2014.

The Complainant has further shown that in response to a cease and desist letter sent by the Complainant to the Respondent the latter did not assert any legitimate right to the disputed domain name but only tried to sell it to the Complainant for valuable consideration in excess of his out-of-pocket costs.

The bad faith registration and use of the disputed domain name is also affirmed by the Respondent's pattern of conduct. In fact, as evidenced and documented by the Complainant, the Respondent has engaged in a

clear pattern of registering domain names corresponding to trademarks held by third parties.

The documents provided by the Complainant show that the Respondent is or used to be the registrant of other domain names infringing well-known third party trademarks such as <allixprees.com>, <amazon.fr>, <facebook.li>, <ggoogle.ch>, <goofle.at>, <louosvuitton.com>, <nnissan.com>, <oitlook.com> and <facebool.com>, and that it has been involved in at least four previous decisions concerning third parties.

The disputed domain name consists of a typographical error of the Complainant's trademark. Most likely this was done to deliberately take advantage of obvious and common typographical errors often made by Internet users searching for the Complainant's website to divert them to the Respondent's website. Typosquatting in itself is inference of bad faith registration and use pursuant to Policy 4(a)(iii).

Finally, the disputed domain name was used to resolve to a parking page displaying PPC links, and/or dynamic redirection to various third party commercial or malicious websites. Such use of the disputed domain name, which is visually similar to the Complainant's renowned MOZILLA trademark, to attract Internet users to online locations for commercial gain, constitutes further evidence of the Respondent's bad faith.

Accordingly, the Panel finds, based on the evidence presented, that the Respondent registered and is using the disputed domain name in bad faith. Therefore, the Complainant has satisfied paragraph 4(a)(iii) 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 <mozilla.com> be transferred to the Complainant.

*/Fabrizio Bedarida/*

**Fabrizio Bedarida**

Sole Panelist

Date: July 19, 2022