

ADMINISTRATIVE PANEL DECISION

YFU International Educational Services, Inc. v. T2N, Mark Nowak
Case No. D2024-0765

1. The Parties

The Complainant is YFU International Educational Services, Inc., United States of America, internally represented.

The Respondent is T2N, Mark Nowak, United States of America.

2. The Domain Name and Registrar

The disputed domain name <eee-yfu.org> (the “Domain Name”) is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 19, 2024. On February 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 20, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Whols Agent, Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 28, 2024, requesting clarification regarding its mutual jurisdiction election. The Complainant responded on February 29, 2024. The Center sent an email communication to the Complainant on February 28, 2024, 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 29, 2024.

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 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 21, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 22, 2024.

The Center appointed Michelle Brownlee as the sole panelist in this matter on April 2, 2024. 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 non-profit corporation that provides intercultural exchange and education programs and is incorporated in the state of Delaware, United States of America. The Complainant is one of numerous international organizations that operate under a Belgian umbrella organization named "European Educational Exchanges – YFU."

The Complainant owns multiple registrations for the trademark YFU in jurisdictions around the world in connection with services in International Class 41 and 42, including:

United States registration number 1485716, with a registration date of April 19, 1988;

European Union Trade Mark registration number 1734763, with a registration date of September 12, 2001; and

Mexico trademark registration number 354018, with a registration date of October 14, 1988.

The Complainant also owns numerous registrations for the trademark YOUTH FOR UNDERSTANDING, for which YFU is an acronym. The Complainant operates a web site at "<https://yfu.org>".

The Domain Name was registered on February 11, 2021. The Domain Name resolves to a web site that describes a student exchange program with a heading "EEE YFU" at the top of the page. The web site also includes advertising for sexual devices.

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 Domain Name.

Notably, the Complainant contends that it has rights in the trademark YFU, that the Respondent has no rights or legitimate interests in respect of the Domain Name, and that the Respondent registered and is using the Domain Name in bad faith by intentionally attempting to attract Internet users to the Respondent's web site for commercial gain by creating a likelihood of confusion with the Complainant's YFU trademark. The Complainant contends that the website operated by the Respondent does not actually offer student exchange program services but instead uses the site to divert traffic to its advertisement for sexual devices. The Complainant states that it sent an email to the Respondent's email address listed in the Whois record for the Domain Name and also attempted to purchase the Domain Name through a third party but received no response to either of the Complainant's attempts to resolve its concerns.

B. Respondent

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

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 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 Domain Name. Accordingly, the Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here, "eee", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 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.

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.

In the present case, the Panel notes that the Respondent is using the Domain Name in connection with a web site that, at first glance appears to be affiliated with the Complainant, since it discusses youth international exchange programs. However, the web site operated by the Respondent is also advertising sexual devices.

The Complainant has established bad faith under paragraph 4(b)(iv) of the Policy. The Panel finds that the use of the Complainant's trademark in the Domain Name and in the heading at the top of the page demonstrates an intent by the Respondent to attract Internet users to the Respondent's web site by creating a likelihood of confusion with the Complainant's YFU trademark, which presumably results in commercial gain to the Respondent. The addition of the letters "eee" to the Complainant's YFU trademark in the Domain Name further demonstrates the Respondent's intention to create confusion with the Complainant because "EEE-YFU" is an acronym for the umbrella organization that the Complainant and other related organizations around the world belong to. Under the circumstances, 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 Domain Name <eee-yfu.org> be transferred to the Complainant.

/Michelle Brownlee/

Michelle Brownlee

Sole Panelist

Date: April 16, 2024