



DECISION

Andrew M Lind / Red Thread Studios LLC / Labyrinth Escape Games, LLC v. PROXY
PROTECTION LLC

Claim Number: FA1801001765496

PARTIES

Complainant is **Andrew M Lind / Red Thread Studios LLC / Labyrinth Escape Games LLC** (“Complainant”), represented by **Matthew A. Lind of Labyrinth Escape Games LLC**. Respondent is **PROXY PROTECTION LLC** (“Respondent”), represented by **Tessa H.L. Lovelace of assorted.tech**, Oregon, USA.

REGISTRAR AND DISPUTED DOMAIN NAMES

The domain names at issue are **<redthreadstudios.org>** and **<solvethelabyrinth.com>**, registered with **DreamHost, LLC**.

PANEL

The undersigned certifies that they have acted independently and impartially and to the best of their knowledge have no known conflict in serving as Panelists in this proceeding.

David L. Kreider as the Chair of the three-member Panel, along with Duc T. Dang and Dennis A. Foster, as Panelists.

PROCEDURAL HISTORY

Complainant submitted a Complaint to the FORUM electronically on January 4, 2018; the FORUM received payment on January 4, 2018.

On January 5, 2018, DreamHost, LLC confirmed by e-mail to the FORUM that the <redthreadstudios.org> and <solvethe labyrinth.com> domain names (the “Disputed Domain Names”), are registered with DreamHost, LLC and that Respondent is the current registrant of the names. DreamHost, LLC has verified that Respondent is bound by the DreamHost, LLC registration agreement and has thereby agreed to resolve domain disputes brought by third parties in accordance with ICANN’s Uniform Domain Name Dispute Resolution Policy (the “Policy”).

On January 12, 2018, the FORUM served the Complaint and all Annexes, including a Written Notice of the Complaint, setting a deadline of February 1, 2018 by which Respondent could file a Response to the Complaint, via e-mail to all entities and persons listed on Respondent’s registration as technical, administrative, and billing contacts, and to postmaster@redthreadstudios.org, postmaster@solvethe labyrinth.com. Also on January 12, 2018, the Written Notice of the Complaint, notifying Respondent of the e-mail addresses served and the deadline for a Response, was transmitted to Respondent via post and fax, to all entities and persons listed on Respondent’s registration as technical, administrative and billing contacts.

A timely Response was received and determined to be complete on February 1, 2018.

On February 5, 2018, and February 6, 2018, Complainant and Respondent, respectively, made timely additional submissions pursuant to Supplemental Rule No. 7. The Panel has considered both submissions.

On February 9, 2018, pursuant to Complainant's request to have the dispute decided by a three-member Panel, the FORUM appointed:
David L. Kreider as Panelist;

Duc T. Dang as Panelist; and
Dennis A. Foster, as Panelist.

Having reviewed the communications records, the Administrative Panel (the "Panel") finds that the FORUM has discharged its responsibility under Paragraph 2(a) of the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") "to employ reasonably available means calculated to achieve actual notice to Respondent" through submission of Electronic and Written Notices, as defined in Rule 1 and Rule 2.

RELIEF SOUGHT

Complainant requests that the domain name be transferred from Respondent to Complainant.

PARTIES' CONTENTIONS

A. Complainant

[a.] *The domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights. UDRP Rule 3(b)(ix)(1); UDRP Policy ¶ 4(a)(i).*

The Respondent has taken under their personal control the domain names redthreadstudios.org as well as solvethelabyrinth.com. These domain names are identical to those under which our corporation has done business for approximately two years as described above. Both of these domains were registered by the Respondent while acting as an agent of the Complainant as a business action of the LLCs.

[b.] *The Respondent should be considered as having no rights or legitimate interests in respect of the domain names that are the subject of the complaint. UDRP Rule 3(b)(ix)(2); UDRP Policy ¶ 4(a)(ii).*

The Respondent, was required to relinquish control of all passwords and access to all corporate domains upon his departure from the corporation. The Respondent is no longer associated with Red Thread Studios, or Labyrinth Escape Games. The Respondent is not conducting any business associated with the trademarks or domains in question.

[c.] *Specify in the space below why the domain name(s) should be considered as having been registered and being used in bad faith. UDRP Rule 3(b)(ix)(3); UDRP Policy ¶ 4(a)(iii).*

The Respondent, while acting as agent of Red Thread Studios LLC and Labyrinth Escape Games LLC did establish a corporate “child” account under their personal “parent” account for the apparent intent of creating a permanent “back-door” and long-term control of the corporate domains. The domains in question were then registered under this “child” account. Upon the Respondent’s separation from the LLCs, they suspended the domains and has redirected all web traffic to a personal web page being used to defame and discredit the LLCs. Additionally, the Respondent is intercepting all webmail sent to corporate email addresses on the domain redthreadstudios.org.

The Respondent has demanded monetary compensation for the transfer of the domains, above and beyond any out-of-pocket costs they have incurred.

B. Respondent

First and primarily, the company documents submitted as part of the request are falsified. I have attached the original version of the company charter, without half of the founding members edited out.

I'd like it noted that I am still legally the CTO of Red Thread Studios LLC, and neither I nor the other member of the original four member startup LLC

consented to being written out of the company. The domains and websites and SEO and everything online was set up by me, personally.

Ongoing SEO efforts have been managed by others, but even the frameworks being used are the ones I had configured. I made extensive efforts to communicate the complexities of websites with integrated shopping carts, email servers, etc to Andrew personally and to Red Thread management collectively. Andrew personally informed me that a web developer had looked at the website and that it's not super complex.

I attempted to communicate the difference between frontend (the html viewable in your browser) and backend, the servers that make everything actually show up in the browser. If Red Thread is claiming that I was and am *not* an employee of the company during 2017, they are facing a bill for my services provided, as a professional system administrator and system architect, that will amount to an excess of \$143,575 plus processing fees.

However: I have a text from Andrew M. Lind on Tue, 15 Aug 2017 21:28:48 PDT, confirming that as of that moment, I was still an acting member of the Red Thread Studios C-level executives, and multiple other texts previous to that one asking for services and resources consistent with my position as CTO.

Health Problems and Violence. I took a leave of absence from Red Thread Studios in early 2017 for health reasons. They were the direct result of the horrible treatment I experienced from Vincent and Andrew.

Over 2016, there was constant "joking" about violence against me, one of my friends, a member of my tech team, or even customers and random passers-by. Andrew is ex-military, and bragged about his physical prowess constantly, even

going so far as to accuse me (someone who is very, very open about their communication disability and pacifism) of trying to, and I quote, "Out alpha" him.

I'd like it noted for the record that I did not once do anything in response to this. I sucked it up, because the company was starting to become really successful, we had a solid board of directors, and the paperwork for transition from LLC to S-Corp was being finalized in early Q1 2017. Andrew said he had it handled, and I trusted him, because I (also) had signed paperwork.

When I stopped being on-site, it was because I'd successfully gotten a tech team set up, and the company no longer needed me on site to survive.

And, the verbal agreement was that the digital stuff (web/email/backups/HRM/billing/etc) would still be hosted and maintained by me remotely, via my admin access to the accounts I'd set up.

Midway through 2017, I got a text about someone breaking into the physical location during a riot, and Andrew asked me for the 2FA for the admin account. Within a day or two, all of my company access had been shut off, limiting my ability to keep Red Thread Studios services online without spending excessive amounts of time or money, neither of which I have in excess thanks to my health issues.

I would also like it noted that Andrew disbanded the board of directors almost as soon as I was no longer on-site daily, and then the paperwork for S-Corp status vanished.

Other documentation and data has also been destroyed or lost due to Andrew's extreme negligence as a CEO and lack of understanding about the very most basic things in tech, like "if you shut off the backups to save money, you've got

nothing to restore from if your cloud provider suspends you or has data issues". Seriously. It's automated for a reason. Don't shut off the backups.

The domains are the property of my hosting company, Assorted Tech. (formerly DBA Onkoi Studios). Extensive attempts were made throughout 2017 to provide and facilitate domain name and data transfer, but those attempts were ignored and refused despite my best efforts. I wrote pages of documentation and communication to Red Thread technical management during Q3-Q4 2017 to this intent, very little if any of it was responded to, but enough to show me that at least some of my info was being read by some members of management. Records of text and email communication to this effect will be made available should they be necessary. I have a lot of documentation. Excessive amounts.

In late 2017, I communicated (and it was acknowledged) that I could no longer accept the financial burden of paying for these services via my hosting company unless the rapidly escalating technical debt (and the personal debt I was accruing trying to deal with it) was mitigated to my satisfaction. This was agreed to by an on-site representative of Red Thread Studios.

As fall turned into winter with zero actionable response and multiple hostile communications from Andrew personally and professionally, it became clear that nothing was going to happen.

I made it very clear that failure to act would result in loss of data and service downtime, at multiple points throughout Q3-Q4 of 2017.

Formal notice of impending service termination was sent to all known email addresses on December 2, 2017 at 2:01 PM PST. A final notice of service termination was sent at December 12, 2017 4:41:37 PM PST.

Efforts continued to attempt contact members of the tech team (which I originally hired) until midnight on the 18th of December, at which point in time all retrievable data was archived and the suspension notice was posted.

The morning after the website went down, I became the focus of an intense harassment and attempted manipulation campaign against myself, my former partner, and against my hosting company. They got Matt Lind, the person I hired to be my on-site team lead while I was on medical leave, to try to emotionally manipulate me using privileged information.

I have a recording of Red Thread's lawyer threatening to send armed individuals to my house to hurt me. I have the word of a local law enforcement officer that an attempted to "SWAT" me was made, by either Red Thread (Andrew Lind, Vincent Stevens) or their legal representative tried to push through a police raid on my house with the falsehood that I was a violent individual. I'd like it noted for the record that I'm a pacifist with a communication disability. Everyone in the company knew I had additional needs for communication, and they tried to use this info to get me hurt or killed. Because of this, both Andrew and Vincent are on the receiving end of a restraining order, which is currently in processing.

This claim against the domains my hosting company owns is part of that harassment, directed at me by Andrew Lind. I'd like it noted for the record that all I required to un-suspend services (for the purposes of providing a transfer) was for a representative of Red Thread to sign an agreement limiting violent and hostile actions against me, which I have attached for reference purposes.

The intellectual property of the "Red Thread Studios" name belongs to the other founding member of the LLC. They are a disabled individual with no income, and due to Andrew's willingness to cut them out, they are currently homeless. The Labyrinth logo design was created by my roommate, for me, before the articles of

organization were signed. I transferred that particular bit of property to my hosting company and set up an account for Red Thread to manage it. I don't think that management tool was ever used.

Andrew Lind and Vincent Stevens are trying to perform a hostile takeover of the company, and they're really bad a being evil corporate overlords. This whole thing is supposed to be being handled by lawyers, but Andrew (and possibly Vincent too) is pushing forward an aggressive harassment campaign that I am and will continue to resist with every resource at my disposal.

This complaint from Red Thread is not only false, but also illegal.

C. Additional Submissions

Complainant's Additional Submission avers, in relevant part, that Complainant made multiple offers to compensate Respondent for its expenses related to the Disputed Domain Names, which Respondent refused, and that Respondent had been "completely severed from any roles, responsibilities, or ownership of the [Complainant] organization" after stepping down from the organization. Screen shots of a text chat annexed to Complainant's Additional Submission purport to evidence that such an offer of compensation was made and refused.

Respondent's Additional Submission consists of what appears to the Panel to be a six-point refutation of Complainant's Additional Submission, which Respondent characterizes as "legal loophole-threading". Respondent's Additional Submission consists substantially of claims of "death threats" and "personal attacks" on Respondent by Complainant's principals, of the "he said", "she said" variety.

Respondent avers that records of the Oregon Secretary of State submitted by Complainant (purporting to show that Respondent had been "completely severed" from the Complainant organization) were "falsified" and had been

“submitted to the Oregon Secretary of State [by Complainant] without the knowledge” of half of the founding members of the Complainant organization.

FINDINGS

The Panel observes at the outset that the parties have a years long business relationship that has become unmanageable. Under similar circumstances, previous panels have uniformly held that the UDRP is not suitable for the resolution of complex contract disputes between parties who assert competing trade mark rights in good faith. *See, e.g., The American Association of the Order of St. Lazarus, Inc. v. Howard Browne / Order of St Lazarus*, D2014-0738 (WIPO June 23, 2014).

In the present case, moreover, Complainant has failed to satisfy any of the three elements required under Paragraph 4(a) of the Policy, including the threshold “standing” requirement under Policy ¶ 4(a)(i), which requires a showing that Complainant has rights in the relevant trade or service marks.

Complainant claims to enjoy common law rights in the “redthreadstudios.org” and “solvethelabyrinth.com” marks, yet alleges in its Complaint only that:

“[R]edthreadstudios.org – this is the domain is the common law mark associated with Red Thread Studios LLC, and our corporate email system. This domain was structured to redirect to solvethelabyrinth.com [] – this is the domain is (*sic*) the common law mark associated with Labyrinth Escape Games LLC, it is used for our customer interface, sales of our “product” (themed team-building activities), and brand presence. It has been the “online front-door” and “store-front” for our business since its inception. *This domain has also been the destination for all of our investment in advertising*

campaigns, SEO development, and represents significant monetary investment.”

(Emphasis supplied)

In further support of its purported common law trade mark rights, the Complaint further asserts that:

“These domain names are identical to those under which our corporation has done business for *approximately* two years as described above.”

(Emphasis supplied)

Complainant submits as annexures to its Complaint purported State of Oregon business name registry data reflecting that RED THREAD STUDIOS, LLC and LABYRINTH ESCAPE GAMES were registered by Andrew M. Lind, as Authorized Representative, on March 16, 2015 and January 22, 2016, respectively, along with a screen shot purporting to show that the Disputed Domain Name <solvetheLabyrinth.com> had resolved to a website offering “LABYRINTH – Immersive Escape Room Adventures” at least during the period commencing May 18, 2015 and ending September 20, 2017 (*i.e.*, a period of some 16 months).

Complainant has adduced no evidence to show that either its “redthreadstudios.org” or “solvetheLabyrinth.com” marks, or both, has become a distinctive identifier which consumers associate with Complainant’s goods or services, nor does the Complaint even allege such factors as (1) the duration and nature of use of the marks, (2) the amount of sales under the respective marks, (3) the nature and extent of

advertising using the marks, (4) the degree of actual public recognition, and (5) consumer surveys. *See*, WIPO UDRP Overview 3.0, at par. 1.3.

In short, Complainant has fallen far short in its attempt to allege or prove (beyond mere conclusory allegations) unregistered or common law trademark rights for purposes of the UDRP.

DISCUSSION

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Paragraph 4(a) of the Policy requires that Complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- (1) the domain name registered by Respondent is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (2) Respondent has no rights or legitimate interests in respect of the domain name; and
- (3) the domain name has been registered and is being used in bad faith.

Identical and/or Confusingly Similar

As explained in the "Findings" section above, the Panel finds that Complainant has not established unregistered or common law trademark rights in the "redthreadstudios.org" and "solvethe labyrinth.com" marks and has therefore failed to satisfy Policy ¶ 4(a)(i). Accordingly, the Panel declines to analyze the other two elements of the Policy. *See Netsertive, Inc. v. Ryan Howard / Howard Technologies, Ltd.*, FA 1721637 (FORUM Apr. 17, 2017) (finding that because the

complainant must prove all three elements under the Policy, the complainant's failure to prove one of the elements makes further inquiry into the remaining element unnecessary); *see also Wasatch Shutter Design v. Duane Howell / The Blindman*, FA 1731056 (FORUM June 23, 2017) (deciding not to inquire into the respondent's rights or legitimate interests or its registration and use in bad faith where the complainant could not satisfy the requirements of Policy ¶ 4(a)(i)).

Rights or Legitimate Interests

Since the Panel has found that Complainant failed to satisfy Policy ¶ 4(a)(i), the Panel declines to analyze this element of the Policy.

Registration and Use in Bad Faith

Since the Panel has found that Complainant failed to satisfy Policy ¶ 4(a)(i), the Panel declines to analyze this element of the Policy.

DECISION

Having not established all three elements required under the ICANN Policy, the Panel concludes that relief shall be DENIED.

Accordingly, it is Ordered that the <redthreadstudios.org> and <solvethelabyrinth.com> domain names **REMAIN WITH** Respondent.

David L. Kreider as the Chair, along with
Duc T. Dang and Dennis A. Foster, Panelists

Dated: February 12, 2018