

ADMINISTRATIVE PANEL DECISION

Frontline Insurance v. Loony Foodies Case No. D2023-3068

1. The Parties

The Complainant is Frontline Insurance, United States of America (“United States”, “U.S.”), represented by ZeroFox, United States of America.

The Respondent is Loony Foodies, India.

2. The Domain Names and Registrar

The Disputed Domain Names <fontlineinsurance.com>, <frontlineinsurance.com>, <frontlineinsrance.com>, <frontlineinsuance.com>, <frontlineinsurace.com>, <frontlineinsurane.com>, <frontlineinsurnce.com>, and <frontlineinsurance.com> are registered with Sea Wasp, LLC (the “Registrar”). In this decision, these domain names are each referred to as a “Disputed Domain Name” and together as the “Disputed Domain Names”.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 17, 2023. On July 18, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Names. On July 18, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Names which differed from the named Respondent (Jewella Privacy - c7c96) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 21, 2023 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 July 26, 2023.

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 July 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 17, 2023. The Respondent did not submit any response. The Respondent sent email communications to the Center on August 16, 2023 and August 18, 2023. On August 24, 2023, the Center notified the Parties that it would proceed to panel appointment.

The Center appointed Nick J. Gardner as the sole panelist in this matter on September 6, 2023. 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 United States insurance company. It has been in business for over 20 years. It owns U.S. registered trademark no 5478655 registered on May 29, 2018, in respect of FRONTLINE INSURANCE.¹ That trademark is referred to as the “FRONTLINE INSURANCE trademark” in this decision.

The Disputed Domain Names were registered as follows;

- <fontlineinsurance.com> September 30, 2019;
- <frontineinsurance.com> August 19, 2021;
- <frontlineinsrance.com> August 19, 2021;
- <frontlineinsuance.com> August 19, 2021;
- <frontlineinsurace.com> August 19, 2021;
- <frontlineinsurane.com> August 19, 2021;
- <frontlineinsurnce.com> August 19, 2021;
- <frontlineisurance.com> June 6 2020.

They each resolve by redirection to one or more websites which each comprise a page of pay-per-click (“PPC”) links to third party websites. The Panel infers these links are automatically generated by an underlying algorithm.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for cancellation of the Disputed Domain Names.

B. Respondent

No response has been filed. The informal emails sent by the Respondent to the Center did not contain any substantive information beyond indicating that the Respondent wished to explore settlement possibilities with the Complainant.

6. Discussion and Findings

6.1 Preliminary Matters

The Panel notes that the Respondent has not submitted a formal Response in the present matter. However, given the Complaint and Written Notice were sent to the relevant addresses disclosed by the Registrar, then the Panel considers that this satisfies the requirement in paragraph 2(a) of the UDRP Rules to “employ reasonably available means calculated to achieve actual notice”. Accordingly, the Panel considers it is able to proceed to determine this Complaint and to draw inferences from the Respondent’s failure to file any formal Response. While the Respondent’s failure to file a formal Response does not automatically result in a

¹ The Panel has confirmed this information by a search of official records at the US Patent and Trade Mark Office. The registration is in the name of Frontline Insurance Managers Inc. which the Panel takes to be the Complainant’s full name.

decision in favor of the Complainant, the Panel may draw appropriate inferences from the Respondent's lack of a formal response.

6.2 Substantive Matters

To succeed, in accordance with paragraph 4(a) of the Policy, the Complainant must satisfy the Panel that:

- (i) the Disputed Domain Name is identical with 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;
- (iii) the Disputed Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has rights in the FRONTLINE INSURANCE trademark. The Disputed Domain Names are each typographical variations of that trademark. The Panel agrees in this regard with the approach set out in WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.9, namely:

"Is a domain name consisting of a misspelling of the complainant's trademark (*i.e.*, typosquatting) confusingly similar to the complainant's mark?"

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."

It is also well established that the generic Top-Level Domain ("gTLD"), in this case ".com", does not affect the Disputed Domain Names for the purpose of determining whether they are identical or confusingly similar. See, for example, *Rollerblade, Inc. v. Chris McCrady*, WIPO Case No. [D2000-0429](#).

Accordingly, the Panel finds that each of the Disputed Domain Names is confusingly similar to the Complainant's trademark and hence the first condition of paragraph 4(a) of the Policy has been fulfilled.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a domain name:

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

None of these apply in the present circumstances. The Complainant has not authorised, licensed, or permitted the Respondent to register or use the Disputed Domain Names or to use the FRONTLINE INSURANCE trademark. The Complainant has prior rights in the FRONTLINE INSURANCE trademark which precede the Respondent's acquisition of the Disputed Domain Names. The Complainant has therefore established a *prima facie* case that the Respondent does not have any rights or legitimate interests in the Disputed Domain Names, and thereby the burden of production shifts to the Respondent to produce

evidence demonstrating rights or legitimate interests in respect of the Disputed Domain Names (see, for example, *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#); and *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

The Panel finds that the Respondent has failed to produce any evidence to establish its rights or legitimate interests in the Disputed Domain Names. Accordingly, the Panel finds the Respondent has no rights or any legitimate interests in the Disputed Domain Names and the second condition of paragraph 4(a) of the Policy has been fulfilled.

C. Registered and Used in Bad Faith

Under paragraph 4(b) of the Policy a non-exhaustive list of factors evidencing registration and use in bad faith comprises:

(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.

The Panel concludes that paragraph 4(b)(iv) of the Policy applies in the present matter, as the Disputed Domain Names are each likely to attract Internet traffic because of confusion with the Complainant's mark, and the Respondent derives commercial gain as a result. The websites linked to the Disputed Domain Names comprises a series of PPC links to other third-party websites. The Panel infers that some consumers, once at this website will follow the provided links and "click through" to other sites which offer products some of which may compete with those of the Complainant. The Respondent presumably earns "click through" linking revenue as a result. The Panel infers the website is automatically generated. This does not however matter. It is well established that where a domain name is used to generate revenue in respect of "click through" traffic, and that traffic has been attracted because of the name's association with the Complainant, such use amounts to use in bad faith, see for example *Shangri-La International Hotel Management Limited v. NetIncome Ventures Inc.*, WIPO Case No. [D2006-1315](#); *Owens Corning v. NA*, WIPO Case No. [D2007-1143](#); *McDonald's Corporation v. ZusCom*, WIPO Case No. [D2007-1353](#); *Villeroy & Boch AG v. Mario Pingerna*, WIPO Case No. [D2007-1912](#); and *Rolex Watch U.S.A., Inc. v. Vadim Krivitsky*, WIPO Case No. [D2008-0396](#).

See also [WIPO Overview 3.0](#) section 3.5: "Can third-party generated material 'automatically' appearing on the website associated with a domain name form a basis for finding bad faith?"

Particularly with respect to 'automatically' generated pay-per-click links, panels have held that a respondent cannot disclaim responsibility for content appearing on the website associated with its domain name (nor would such links ipso facto vest the respondent with rights or legitimate interests).

Neither the fact that such links are generated by a third party such as a registrar or auction platform (or their affiliate), nor the fact that the respondent itself may not have directly profited, would by itself prevent a finding of bad faith.”

Accordingly, the Panel finds that the Disputed Domain Names have each been registered and are being used in bad faith and the third condition of paragraph 4(a) of the Policy has been fulfilled.

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 Names, <fontlineinsurance.com>, <frontineinsurance.com>, <frontlineinsrance.com>, <frontlineinsuance.com>, <frontlineinsurace.com>, <frontlineinsurane.com>, <frontlineinsurnce.com>, and <frontlineisurance.com> be cancelled.

/Nick J. Gardner/

Nick J. Gardner

Sole Panelist

Date: September 20, 2023