

ADMINISTRATIVE PANEL DECISION

FengHe Fund Management Pte. Ltd. v. Claretova Claretova
Case No. D2023-3912

1. The Parties

The Complainant is FengHe Fund Management Pte. Ltd., Singapore, represented by Shook Lin & Bok LLP, Singapore.

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

2. The Domain Names and Registrar

The disputed domain names <fengheltd.com>, <fenghemarket.com>, and <fenghemarketltd.com> are registered with Gname.com Pte. Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 19, 2023. On September 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 22, 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 (Unknown Respondent) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 22, 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 amended Complaint on September 27, 2023.

The Center verified that the Complaint together with the amended 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 September 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 18, 2023. The Respondent did not submit any Response. Accordingly, the Center notified the Respondent's default on October 19, 2023.

The Center appointed James Wang as the sole panelist in this matter on October 25, 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 leading Asian investment platform built on extensive knowledge, experience, and networks. The Complainant provides various financial services and has a consistent track record in investment returns.

The Complainant has received various awards since 2015 including being APEC Fund of the Year 2022 (Investors Choice), Top Performer Asia Pacific Fund – Long Term Performance in 2021 (Investors Choice), Fund of the Year in 2019 (Investors Choice), 1st by Net Return in 2018 (Barclay Hedge), and Top 10 by Net Return in 2015 (Eureka Hedge).

The Complainant has over the years earned considerable goodwill and reputation in various countries and regions, including in Singapore, United States, and Hong Kong, China.

The Complainant is the owner of multiple registrations for 風和 FENGHE FUND MANAGEMENT and device trademarks (the “FENGHE and device trademarks”) across various jurisdictions, including but not limited to the following:

- China trademark registration No. 48056089 in class 36, registered on July 7, 2021;
- United States trademark registration No. 5393640 in class 36, registered on February 6, 2018;
- Hong Kong, China trademark No. 304100417 in class 36, registered on October 17, 2017;
- Singapore trademark No. 40201705860U in class 36, registered on August 17, 2017; and
- International trademark No. 1355398 in class 36, registered on April 21, 2017, designating the European Union and United States.

The disputed domain name <fengheltd.com> was registered on May 7, 2023, and the disputed domain names <fenghemarket.com> and <fenghemarketltd.com> were both registered on June 26, 2023. The disputed domain names previously resolved to an online trading platform to enable purported various financial services. At the time of filing of the Complaint, the disputed domain names were no longer active.

5. Parties’ Contentions

A. Complainant

The Complainant contends as follows:

The disputed domain names are identical or confusingly similar to the FENGHE and device trademarks in which the Complainant has rights. The Respondent has no rights or legitimate interests in respect of the disputed domain names. The disputed domain names were registered and are being used in bad faith.

The Complainant requested that the disputed domain names be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) the disputed domain names are 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 names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has provided evidence that it is the owner of multiple registrations for the FENGHE and device trademarks across various jurisdictions.

The disputed domain names each incorporate the entirety of “fenghe”, which is a distinctive part of the Complainant’s FENGHE and device trademark. As the disputed domain names contain sufficiently recognizable aspects of the Complainant’s trademark, the terms “ltd”, “market”, or “market ltd” as added into the disputed domain names respectively do not prevent a finding of confusing similarity to the Complainant’s trademark. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), sections 1.7 and 1.8.

The Panel therefore finds that the Complaint has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See [WIPO Overview 3.0](#), section 2.1.

The Complainant submits that the Respondent lacks rights or legitimate interests in respect of the disputed domain names.

The Complainant has provided evidence that the disputed domain names currently do not point to an active website. The Complainant submits that the Respondent is not making any active use of the disputed domain names and the passive holding of the disputed domain names does not constitute a legitimate use of domain names. The Complainant has also provided evidence that the disputed domain names previously resolved to an online trading platform to enable various purported financial services under the FENGHE logo. Based on the Panel’s discussion under the section 6.C below, such use does not constitute a legitimate use of domain names either.

Further, the Complainant submits that the Respondent has not been commonly known by the disputed domain names or made any legitimate noncommercial or fair use of the disputed domain names.

The Respondent submitted no response to the allegations of the Complainant.

The Panel finds that the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests, and the Respondent has failed to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain names.

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

C. Registered and Used in Bad Faith

The Complainant has provided evidence that its trademark has gained substantial goodwill and reputation in association with financial services.

Given the reputation and distinctiveness of the FENGHE and device trademark, which was registered before the disputed domain names, the fact that the disputed domain names previously resolved to a website prominently displaying a FENGHE logo and purportedly offering financial services, and that the Respondent has failed to file a Response explaining the reason of registering the disputed domain names, the Panel agrees with the Complainant that the Respondent knew or should have known of the Complainant's trademark at the time of registration of the disputed domain names. Therefore, the disputed domain names were registered in bad faith.

The Complainant has also provided evidence that the disputed domain names had previously been used to offer services competing with those of the Complainant and/or services provided under the Complainant's registered marks. As such, the Panel agrees with the Complainant that the Respondent has attempted to create a likelihood of confusion with the Complainant's trademark and that the Respondent has used the disputed domain names in bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

At the time of filing the Complaint, the disputed domain names did not resolve to any active website. Under the circumstances in the case, the passive holding of the disputed domain names does not change the Panel's finding of the Respondent's bad faith. See [WIPO Overview 3.0](#), section 3.3.

The Panel therefore finds that the Complaint 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 names <fengheltd.com>, <fenghemarket.com>, and <fenghemarketltd.com> be transferred to the Complainant.

/James Wang/

James Wang

Sole Panelist

Date: November 8, 2023