

ADMINISTRATIVE PANEL DECISION

The Frankie Shop LLC v. Domain Protection Services, Inc. / My Mo
Case No. D2022-0825

1. The Parties

The Complainant is The Frankie Shop LLC, United States of America (“United States”), represented by Coblence Avocats, France.

The Respondent is Domain Protection Services, Inc., United States / My Mo, Hong Kong, China.

2. The Domain Name and Registrar

The disputed domain name <shopthefrankie.com> (the “Domain Name”) is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 9, 2022. On March 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On March 9, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on March 23, 2022 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 March 23, 2022.

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 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 14, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 22, 2022.

The Center appointed Ian Lowe as the sole panelist in this matter on April 27, 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 is a company incorporated in New York, United States, in May 2015. It specializes in the marketing of clothes, bags, cosmetics and jewelry. It operates a website at “www.thefrankieshop.com” marketing and selling its products under the mark THE FRANKIE SHOP.

The Complainant is the proprietor of International trademark number 1648994 THE FRANKIE SHOP registered on October 12, 2021 designating a number of territories including China, the United Kingdom and the United States. In addition, a director of the Complainant is the proprietor of a number of registered trademarks comprising FRANKIE, including France trademark number 4338335 figurative word “Frankie SHOP” registered on February 15, 2017 and United States trademark number 86416726 FRANKIE SHOP registered on February 21, 2017.

The Domain Name was registered on November 9, 2021. It resolves to a website prominently displaying the name The Frankie Shop on the home page and offering for sale what purport to be “The Frankie Shop” products at expressly heavily discounted prices. These include a leather shirt purportedly reduced from USD 517.00 to USD 86.60 and pants reduced from USD 339.00 to USD 69.20. The website does not include any details of the operator of the website, including on the “Contact Us” page.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its THE FRANKIE SHOP trademark and the FRANKIE and FRANKIE SHOP trademarks (the “Marks”), 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 within the meaning of paragraph 4(b)(iv) of the Policy.

B. Respondent

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

6. Discussion and Findings

For this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

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

A. Identical or Confusingly Similar

The Complainant has uncontested rights in the THE FRANKIE SHOP trademark, and the Panel accepts that the Complainant is entitled to use the trademarks owned by its director pursuant to a formal or informal licence, and therefore has indirect rights in respect of those marks. Ignoring the generic Top-Level Domain (“gTLD”) “.com”, the Domain Name is a transposition of the three words comprising the THE FRANKIE SHOP mark, and includes the FRANKIE mark together with the words “the” and “shop”. In the Panel’s view,

these differences do not prevent a finding of confusing similarity between the Domain Name and the Marks.

Accordingly, the Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has made out a strong *prima facie* case that the Respondent could have no rights or legitimate interests in respect of the Domain Name. The Respondent has used the Domain Name not in connection with a *bona fide* offering of goods or services, but for a website offering what the Complainant claims to be counterfeit products of the Complainant. The Panel notes that the website is offering for sale what purport to be the Complainant's products at very substantially discounted prices, which is consistent with the products in question being counterfeit. There is no suggestion that the Respondent has ever been known by the Domain Name (section 2.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). The Respondent has chosen not to respond to the Complaint or to take any steps to counter the *prima facie* case established by the Complainant.

In the circumstances, the Panel finds that the Respondent does not have any rights or legitimate interests in respect of the Domain Name.

C. Registered and Used in Bad Faith

Since the Respondent has used the Domain Name for a website selling what purport to be the Complainant's goods, the Panel is in no doubt that the Respondent had the Complainant and its rights in the Marks in mind when it registered the Domain Name. The home page of the Respondent's website features the Complainant's THE FRANKIE SHOP mark. In the absence of any response by the Respondent, the Panel has no reason to doubt that the Respondent is offering counterfeit goods of the Complainant on its website, particularly given the very substantially discounted prices at which the website is purporting to sell the goods. In the Panel's view, the use of a domain name for such activity, clearly with a view to commercial gain, amounts to paradigm bad faith registration and use for the purposes of the Policy.

Accordingly, the Panel finds that the Domain Name has been registered and is being used in bad faith.

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 <shopthefrankie.com> be transferred to the Complainant.

/Ian Lowe/

Ian Lowe

Sole Panelist

Date: May 11, 2022