

ADMINISTRATIVE PANEL DECISION

Plano Molding Company, LLC v. Jinfeng He
Case No. D2023-0443

1. The Parties

The Complainant is Plano Molding Company, LLC, United States of America (“United States”), represented by Norvell IP llc, United States of America.

The Respondent is Jinfeng He, China.

2. The Domain Name and Registrar

The disputed domain name <frabillsale.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 January 31, 2023. On January 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 2, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 February 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 12, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 12, 2023.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on March 14, 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 following facts are undisputed.

The Complainant is a leading seller of fishing tackle and related goods, with global operations and owns several well-known brands. One of the brands which is owned by the Complainant is the FRABILL brand. The FRABILL brand is used for all kinds of tools used for fishing, such as nets, bait, shelters, and ice fishing straight lines.

The Complainant is the owner of several trademark registrations for the word mark FRABILL, including, but not limited to the following registrations:

- United States trademark registration No. 1284478, FRABILL, registered on July 3, 1984, for amongst others, goods related to fishing equipment;
- United States trademark registration No. 1362134, FRABILL, registered on September 24, 1985, for amongst others, goods related to fishing equipment;

The above-mentioned trademarks will hereinafter together be referred to as the "Trademark".

The Complainant is owner of the domain name <frabill.com>, which was registered in 1997 and is in use today to promote the Complainant's FRABILL branded products.

The Domain Name is registered on July 21, 2022, and resolves to a website where the Trademark is used and fishing related products under the Trademark seem to be offered, hereinafter referred to as the "Website".

5. Parties' Contentions

A. Complainant

The Complainant contends the following.

The Domain Name is confusingly similar to the Trademark, which is well known and distinctive. The Domain Name incorporates the Trademark in its entirety. The addition of the descriptive term "sale" does not change the overall impression and does not make the Domain Name any less confusingly similar to the Trademark.

The Respondent has no rights or legitimate interests in the Domain Name. The Respondent is not affiliated with or connected to the Complainant in any way.

The Respondent has not used, and is not using or preparing to use, the Domain Name in connection with *bona fide* offerings of goods or services. Instead, upon the Complainant's discovery of the Domain Name, the Complainant found that the Website contains countless uses of the Trademark, and attempts to fraudulently represent that the Website is actually a website published by, or sanctioned by, the Complainant. However, at no time has the Complainant ever licensed or authorized the Respondent to use the Trademark. Further, the Website attempts to lure the Complainant's customers to purchase FRABILL branded products, when the Respondent is not actually offering legitimate Frabill products, but is, instead, attempting to defraud unwitting customer by collecting their financial or payment information but never delivering authentic Frabill products. Consumers intending to purchase products from the Complainant have instead been tricked into navigating to the Website and providing personal and payment information to the Respondent believing they were providing this information to the Complainant. Thus, the Respondent is not engaged in the *bona fide* offering of services within the meaning of Paragraph 4(c)(iii) of the Policy.

Furthermore, there is no evidence that the Respondent has been commonly known by the Domain Name or that the Respondent has any rights to the Frabill name that might predate those of the Complainant. The Respondent only recently registered the Domain Name on July 21, 2022, long after the Complainant first started using the Trademark.

The Domain Name was registered and is being used in bad faith.

The Respondent knew of the Complainant's rights in the Trademark prior to the registration of the Domain Name. The Respondent's actions to mimic its Domain Name to the real Frabill Website reveal that they knew of the Frabill-brand and the fame of the name before registering the Domain Name.

The Respondent uses the Trademark in the Domain Name to conduct the fraudulent activities in an attempt to lure the Complainant's customers to provide it with sensitive personal and financial information. Simply put, the Respondent registered and is using the Domain Name to deceive the public, and this is a clear case of bad faith. The Respondent used the Domain Name to intentionally attract, for commercial gain, Internet users into believing the Respondent's Domain Name and corresponding websites were coming from the Complainant or the Complainant's website, when they were not.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements:

- (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.

Noting the burden of proof on the Complainant, the Respondent's default (*i.e.*, failure to submit a formal response) would not by itself mean that the Complainant is deemed to have prevailed. The Respondent's default is not necessarily an admission that the Complainant's claims are true. See in this regard WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3, "In cases involving wholly unsupported and conclusory allegations advanced by the complainant, or where a good faith defense is apparent (*e.g.*, from the content of the website to which a disputed domain name resolves), panels may find that – despite a respondent's default – a complainant has failed to prove its case. Further to paragraph 14(b) of the UDRP Rules however, panels have been prepared to draw certain inferences in light of the particular facts and circumstances of the case *e.g.*, where a particular conclusion is *prima facie* obvious, where an explanation by the respondent is called for but is not forthcoming, or where no other plausible conclusion is apparent".

A. Identical or Confusingly Similar

The Complainant must demonstrate that it has rights in a trademark or service mark and, if so, the Domain Name must be shown to be identical or confusingly similar to that mark.

The Complainant has shown that it has rights in the Trademark.

As set out in the [WIPO Overview 3.0](#), section 1.7, the first element functions primarily as a standing requirement. The threshold test for confusing similarity between the Domain Name and the Trademark

involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the Domain Name.

In light of the foregoing, the Panel finds that the Domain Name is confusingly similar to the Trademark. The Domain Name consist of the elements “frabill”, the term “sales” and the generic Top-Level Domain (gTLD) “.com”. The element “frabill” is identical to the Trademark. The Panel finds that the Trademark is included in its entirety in the Domain Name and that the additional term does not prevent a finding of confusing similarity.

In light of the foregoing, the Panel finds that the Domain Name is confusingly similar to the Trademark.

Therefore, the Panel is satisfied that the first element of the Policy is met.

B. Rights or Legitimate Interests

The Panel has carefully considered the factual allegations that have been made by the Complainant and are supported by the submitted evidence.

In particular, the Respondent has failed to offer the Panel any of the types of evidence set forth in paragraph 4(c) of the Policy from which the Panel might conclude that the Respondent has rights or legitimate interests in the Domain Name, such as:

- (i) use or preparation to use the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services prior to notice of the dispute; or
- (ii) being commonly known by the Domain Name (as an individual, business or other organization) even if the Respondent has not acquired any trademark or service mark rights; or
- (iii) making 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.

Certainly lacking a response, the Panel finds that the Respondent has not used, and is not using or preparing to use, the Domain Name in connection with *bona fide* offerings of goods or services. The Website attempts to lure the Complainant’s customers to purchase FRABILL branded products, when the Respondent is not actually offering legitimate FRABILL products, but is, instead, attempting to defraud unwitting customer by collecting their financial or payment information but never delivering authentic FRABILL products. It is not rebutted that consumers intending to purchase products from the Complainant have instead been tricked into navigating to the Website and providing personal and payment information to the Respondent believing they were providing this information to the Complainant.

Further, the Respondent does not seem to be affiliated with the Complainant in any way. There is no evidence that “Frabill” is the Respondent’s name or that the Respondent is commonly known under this name.

There is also no evidence that the Respondent is, or has ever been, a licensee of the Complainant or that the Respondent has ever asked, or has ever been permitted in any way by the Complainant to register or use the Trademark, or to apply for or use any domain name incorporating the Trademark.

Again, certainly noting that the Respondent has failed to respond to the Complaint and thus has not taken any steps to rebut the Complainant’s arguments, the Panel finds that the Respondent lacks rights to or legitimate interest in the Domain Name.

Therefore, the Panel is satisfied that the second element of the Policy is met.

C. Registered and Used in Bad Faith

The Panel finds that the Domain Name was registered and is being used in bad faith.

The Panel refers to its considerations under section 6.B and adds the following:

In light of the evidence filed by the Complainant, the Panel finds that the Trademark and the Complainant's activities are well known in various parts of the world. Moreover, the Respondent impersonates the Complainant by designing the Website in such a way that visitors of the Website will think that the Respondent and Complainant are somehow connected, which is not the case. Based on the foregoing, the Respondent must have been aware of the existence of the Complainant's activities and rights at the time the Respondent registered the Domain Name.

The Respondent uses the Trademark in the Domain Name to conduct fraudulent activities in an attempt to lure the Complainant's customers to provide it with sensitive personal and financial information. The Respondent registered and is using the Domain Name to deceive the public, and this is a clear case of bad faith.

Therefore, the Panel is satisfied that the third element of the Policy is met.

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, <frabillsale.com>, be transferred to the Complainant.

/Willem J. H. Leppink/

Willem J. H. Leppink

Sole Panelist

Date: March 21, 2023