

ADMINISTRATIVE PANEL DECISION

Millet Mountain Group SAS v. Web Commerce Communications Limited Case No. D2023-1188

1. The Parties

Complainant is Millet Mountain Group SAS, France, represented by Cabinet Germain & Maureau, France.

Respondent is Web Commerce Communications Limited, Malaysia.

2. The Domain Name and Registrars

The disputed domain names <lafumaargentina.com>, <lafumaaustralia.com>, <lafumabelgique.com>, <lafumacanada.com>, <lafumachile.com>, <lafumacolombia.com>, <lafumacostarica.com>, <lafumacz.com>, <lafumadanmark.com>, <lafumadeutschland.com>, <lafumaecuador.com>, <lafumaespana.com>, <lafumafr.com>, <lafumagreece.com>, <lafumahrvatska.com>, <lafumahungary.com>, <lfumaindonesia.com>, <lafumaireland.com>, <lafumaisrael.com>, <lafumaitalia.com>, <lafumajapan.com>, <lafumamalaysia.com>, <lafumamexico.com>, <lafumanederland.com>, <lafumanorge.com>, <lafumanz.com>, <lafumaosterreich.com>, <lafumaperu.com>, <lafumaphilippines.com>, <lafumapolska.com>, <lafumaportugal.com>, <lafumaromania.com>, <lafumasaleuk.com>, <lafumasaudiarabia.com>, <lafumaschweiz.com>, <lafumasingapore.com>, <lafumaslovenia.com>, <lafumaslovensko.com>, <lafumasouthafrica.com>, <lafumasrbija.com>, <lafumasuomi.com>, <lafumasverige.com>, <lafumatr.com>, <lafumauae.com>, <lafumauruguay.com>, <lafumaus.com>, <lafumavenezuela.com> are registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 10, 2023. On March 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 17, 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) and contact information in the Complaint. The Center sent an email communication to Complainant on March 17, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on March 20, 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 Respondent of the Complaint, and the proceedings commenced on March 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 12, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on April 17, 2023.

The Center appointed Scott R. Austin as the sole panelist in this matter on April 24, 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

Without contest by Respondent, Complainant asserts in its Complaint as amended, and its Annexes attached provide evidence sufficient to support that:

Complainant was founded in France, in 1921, and is a conglomerate that provides outdoor and sports apparel products under several brands, including its “horizontal accessible urban travel brand” offering footwear, apparel and accessories, and functional backpacks under the trademark LAFUMA (“the LAFUMA Mark”) in which it holds exclusive rights and which it has used since as early as 1963.

Complainant’s headquarters are in France where it distributes its clothing products through 12 company-owned stores, five more in Europe, four in Japan, and two in China as well as through 3,000 multibrand stores all over the world. Complainant states that it generated EUR 100 million sales in 2018 of which 49% were from customers from France, 32% from the rest of Europe and 19% from the rest of the world.

Complainant also supports its claims of widespread recognition of the LAFUMA Mark based on its use worldwide for more than 55 years and submits content supporting its claims for such world-wide recognition in the Annexes to its Complaint. For example, the record shows Complainant’s Facebook and Instagram accounts under the LAFUMA Mark have respectively 42 000 and 26 000 followers.

Complainant’s official website is accessed through its domain name <lafuma.com> which has operated since registration October 16, 1998 (the “Official LAFUMA Website”) and it is used to advertise and sell its outdoor apparel and footwear products. Complainant is the registrant of numerous other domain names consisting of or including the LAFUMA Mark under a wide range of generic Top-Level Domains (“gTLDs”) as well as under numerous country code Top-Level Domains (“ccTLDs”) such as <lafuma.fr> and <lafuma-boutique.com>.

Complainant owns numerous registrations protecting the LAFUMA Mark in France and around the world, including:

France Registration No. 1,642,621, LAFUMA, registered on January 31, 1991, for goods in International Classes 9, 18, 20, 22, 25 and 28;

International Registration No. 272 276, LAFUMA, registered on July 26, 1963, for goods in International Classes 18, 20, and 28, designating several jurisdictions;

European Union Trade Mark No. 018 666 836, LAFUMA, registered on January 19, 2009, for goods in International Classes 18, 20, 22, 25, and 28.

All 47 of the disputed domain names were registered within the same 3 day period, October 24-26, 2022, through the same registrar, Alibaba.Com Singapore E-Commerce Private Limited, to the same registrant, Respondent, as disclosed in the Registrar’s verification response, and share numerous common characteristics and technical features.

According to the evidence submitted with the Complaint, of the 47 disputed domain names registered by Respondent, 46 are configured to incorporate the LAFUMA Mark in its entirety as the initial term followed by an appended country geographic reference, with the lone exception <lafumasaleuk.com> inserting the term "sale" between the mark and "UK" as an abbreviation the United Kingdom. All 47 disputed domain names 1) resolve to websites that contain in their source code a "comment" which reveals that these websites associated with Respondent's disputed domain names have been automatically deployed and Complainant contends that "this exact comment has been spotted as a unique pattern of a massive fraudulent web stores network" that supports a phishing scheme; 2) the websites in appearance and structure, are identical to one another and the content is the same comprised of "copycat websites" that reproduce Complainant's LAFUMA Mark without authorization at the top of the landing page and with images of Complainant's outdoor apparel products, offered throughout each site for sale at discounted prices, but likely substituted by Respondent's counterfeit goods.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for the remedy it seeks, namely, transfer to Complainant of all 47 of the disputed domain names listed in its Complaint. Complainant holds numerous trademark registrations for the LAFUMA Mark across many jurisdictions around the world. Complainant shows in its Annexes that it owns registered trademark rights, including those set out in Section 4 above. Complainant further relies on the goodwill and recognition that has been attained under the LAFUMA Mark, which has become a widely recognized distinctive identifier for its products. Complainant's LAFUMA trademarks are globally recognized by the public.

Complainant asserts that the disputed domain names are confusingly similar to the LAFUMA Mark because each of the disputed domain names clearly and prominently encompass Complainant's globally distinctive LAFUMA Mark in full, only followed by various geographic or generic terms, none of which additions are sufficient to prevent a finding of confusing similarity.

Complainant submits that there are no rights or legitimate interests held by Respondent in respect of the disputed domain names. Respondent is not commonly known by any of the disputed domain names, nor does Respondent have any authorization or license from Complainant to use the LAFUMA Mark or to register any of the disputed domain names.

Complainant contends that the fact that each disputed domain name contains the LAFUMA Mark together with an active corresponding identical copycat website displaying the targeted trademark products shows that the aim of Respondent in each case is to confuse Internet users searching for Complainant's products or services into thinking that they had arrived at Complainant's website and to create a false link between Complainant's LAFUMA Mark and each of the disputed domain names in support of a massive phishing scheme.

Respondent is not making a legitimate noncommercial or fair use of any of the disputed domain names. Rather Respondent is using the disputed domain names to resolve to copycat websites that provide a means to purchase Complainant's products in which users directly input their credit card information into Respondent's site and not into a secure third party financial application. Such use does not amount to a *bona fide* offering of goods and services and can never confer rights or legitimate interests on a respondent, nor can such unauthorized impersonation to sell goods constitute a legitimate noncommercial or fair use of any of the disputed domain names. None of these resolving sites contain disclaimers accounting for their connection (or lack thereof) to Complainant.

Complainant contends that the disputed domain names were registered and are being used in bad faith. First, Complainant asserts that the LAFUMA Mark is registered worldwide and therefore Respondent must have been aware that it would be well known as a trademark in various jurisdictions worldwide.

Complainant's earliest LAFUMA Mark registration also predates the registration of all of the disputed domain names by decades. Complainant submits, therefore, that Respondent knowingly registered each of the disputed domain names in bad faith with the intention of targeting Complainant's LAFUMA Mark to trade off the goodwill and reputation attaching to Complainant LAFUMA Mark. Complainant contends that Respondent's use of the disputed domain names is to capitalize on the reputation of Complainant's trademark by diverting Internet users seeking Complainant's services to its websites for financial gain, by intentionally creating a likelihood of confusion with Complainant's registered trademarks as to the source, sponsorship, affiliation, or endorsement of its websites and/or the goods and services offered or promoted through the websites. Complainant contends, therefore, that Respondent's conduct amounts to registration and use of each of the disputed domain names in bad faith.

Accordingly, Complainant requests transfer to Complainant of all 47 of the disputed domain names.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

In view of Respondent's failure to submit any Response, the Panel shall decide this administrative proceeding on the basis of Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable, and supported, allegations and inferences set forth in the Complaint as true, unless the evidence is clearly contradictory.

Where no substantive Response is filed, however, Complainant must still make out its case in all respects under paragraph 4(a) of the Policy. To succeed, Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied.

The Panel will address its findings on each of these requirements in more detail below.

The standard of proof under the Policy is often expressed as the "balance of the probabilities" or "preponderance of the evidence" standard. Under this standard, an asserting party needs to establish that it is more likely than not that the claimed fact is true. See, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.2.

A. Identical or Confusingly Similar

Ownership of a nationally registered trademark constitutes *prima facie* evidence that the complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

Complainant claims registered trademark rights in the LAFUMA Mark for its outdoor apparel and footwear products dating back to 1963. Sufficient evidence has been submitted in the form of electronic copies of valid and subsisting national and international trademark registration documents in the name of Complainant referenced in Section 4. Complainant has demonstrated, therefore, that it has rights in the LAFUMA Mark required under the Policy. See *Horten Advokatpartnerselskab v. Domain ID Shield Service CO., Limited / Krutik ov Valeriy Nikolaevich et al.*, WIPO Case No. [D2016-0205](#); see also *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#).

Complainant's extensive and detailed evidence submitted in the Complaint and its Annexes relating to each disputed domain name shows that all 47 of the disputed domain names clearly and prominently encompass Complainant's LAFUMA Mark in full, only followed by additional terms and Complainant contends therefore, that each of the disputed domain names is recognizable in and therefore confusingly similar to Complainant's LAFUMA Mark.

Prior UDRP panels have held that a domain name which wholly incorporates a complainant's registered mark is sufficient to establish identity or confusing similarity for purposes of the Policy despite the addition of other terms to such marks. [WIPO Overview 3.0](#), section 1.8 ("Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element") see also *Meta Platforms, Inc. et al. v. Abuz Hamal et al.*, WIPO Case No. [D2022-0212](#). Further, the addition of a gTLD "is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test". [WIPO Overview 3.0](#), Section 1.11.1.

Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under the second element of the Policy, a complainant is first required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. If a complainant makes that showing, the burden of production on this element shifts to the respondent to come forward with relevant evidence of such rights or legitimate interests in the domain name. If the respondent fails to come forward with such evidence, a complainant is generally deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1. See also, *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#).

Complainant has established, *prima facie*, that Respondent lacks rights or legitimate interests in each of the disputed domain names. First, Complainant submits that it has not licensed, or otherwise authorized Respondent to use the LAFUMA Mark in any manner or to register any of the disputed domain names, nor has Complainant in any way or manner associated with or entered into any legal relationship with Respondent. There is no evidence of record that Respondent has registered as trademarks or used as unregistered marks the term "lafuma" and Complainant states that to the best of its knowledge, Respondent has not registered any trademarks for LAFUMA, nor has Complainant found any evidence to suggest Respondent holds unregistered rights in such term.

Complainant also contends and provides persuasive registration data evidence in the Annexes to its Complaint that Respondent is not commonly known by any of the disputed domain names. Complainant has also asserted that it is neither in possession of, nor aware of the existence of any evidence demonstrating that Respondent might be commonly known by any of the disputed domain names.

Complainant next contends that Respondent lacks rights or legitimate interests in the respective disputed domain name because each disputed domain name is actively used divert Complainant's potential customers to Respondent's website for its commercial gain either through the sale of likely counterfeit goods or worse, while trying to order a product on these websites, the consumer is required to provide its credit card information directly to Respondent as the website owner through its online form allowing Respondent to harvest such personal financial data, while instead Complainant contends, such online payment should be managed by a financial third party service like Stripe, Paypal or a dedicated bank service.

The Panel notes that websites at the disputed domain names offer for sale Complainant's LAFUMA branded products at discounted prices. Under these circumstances, it is reasonable to infer that the products offered are counterfeit of Complainant's products.

Prior UDRP panels have consistently held that such use of a domain name for such illegitimate purposes to divert consumers to a commercial webpage for the sale of counterfeit goods or impersonation/passing of can never confer rights or legitimate interests on the respondent. After reviewing the 47 copycat websites operating from the disputed domain names, there is clearly no legitimate noncommercial or fair use on the part of Respondent using its disputed domain names for such websites. See *Houghton Mifflin Co. v. The Weathermen, Inc.*, WIPO Case No. [D2001-0211](#).

Complainant has presented a *prima facie* case showing that Respondent does not have rights or legitimate interests in the disputed domain names. The Panel notes that Respondent has not submitted a Response in this proceeding, much less provided the Panel with any evidence set forth in paragraph 4(c) of the Policy from which the Panel might conclude Respondent has rights or legitimate interests in the respective disputed domain names. As such, Respondent has failed to rebut Complainant's *prima facie* case.

The Panel finds, therefore, that Complainant has successfully met its burden and that the Complaint succeeds under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Respondent's actions constitute bad faith registration and use of the disputed domain names.

Under this third element of the Policy, Complainant first contends that because Respondent has created a series of disputed domain names that are each confusingly similar to Complainant's LAFUMA Mark, it is implausible to believe that Respondent was not aware of Complainant's widely recognized LAFUMA Mark when it registered such confusingly similar disputed domain names. This likelihood of awareness is especially true where Complainant's earliest LAFUMA Mark registration predates the registration of all of the disputed domain names by approximately 55 years.

Complainant's LAFUMA Mark is also registered all over the world. UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith registration and use. See, [WIPO Overview 3.0](#), section 3.1.4.

Based on the foregoing, the Panel finds it most likely that Respondent knew of and targeted Complainant and the LAFUMA Mark, noting *inter alia* its choice to encompass Complainant's well-known LAFUMA Mark, with various trailing geographic terms appended to the LAFUMA Mark, in each of the disputed domain names. In these circumstances, registration of 47 disputed domain names incorporating Complainant's well-known LAFUMA Mark points to registration in bad faith. See *Facebook, Inc. v. Ricky Bhatia*, WIPO Case No. [D2017-2542](#).

Bad faith use is also clear from Respondent's conduct as discussed in section 6.B. Complainant has shown that all 47 of the disputed domain names operated by Respondent resolve to active copycat sites which reproduce Complainant's registered LAFUMA Mark as well as engage in the sale of likely counterfeit versions of Complainant's apparel and footwear products, infringe its content and further Respondent's fraudulent phishing scheme forcing users who purchase such counterfeit goods to disclose their credit card financial data using Respondent's form instead of a recognized online secure electronic payment processing system. It appears to the Panel, therefore, that Respondent has used its disputed domain names to intentionally attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with Complainant's LAFUMA Mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website which the Panel finds constitutes bad faith registration and use under paragraph 4(b)(iv) of the Policy. Given the circumstances of this case, such a showing is sufficient to establish bad faith registration and use. See also [WIPO Overview 3.0](#), sections 3.1.4.

Moreover, the Panel notes that Respondent has registered 47 disputed domain names, all wholly incorporating the Complainant's well-known LAFUMA Mark. Respondent has provided no explanation of why it registered the disputed domain names, and particularly no explanation why 47 registrations were necessary or appropriate. In the circumstances of this case, these registrations suggest a pattern of abuse indicative of bad faith.

Finally, Complainant has also alerted the Panel to a striking similarity between the technical, structural, hosting, server designations, and website HTML source code "comment" associated with the disputed

domain names here and the distinctive elements found on each website in an ongoing massive Asian based fraud network in force since 2021 identified in several past and current UDRP cases. Complainant has submitted in the Annexes to its Complaint a partial extract of domain names managed with a DNS server showing that Respondent and its servers are clearly associated with this fraud network that is targeting dozens of well-known and famous trademarks through the registration and management of thousands of domain names.

Accordingly, considering all of the foregoing circumstances, the Panel finds that all 47 of the disputed domain names have been both registered and used in bad faith, and that the Complaint has met its burden under 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, <lafumaargentina.com>, <lafumaaustralia.com>, <lafumabelgique.com>, <lufumacanada.com>, <lafumachile.com>, <lafumacolombia.com>, <lafumacostarica.com>, <lafumacz.com>, <lafumadanmark.com>, <lafumadeutschland.com>, <lafumaecuador.com>, <lafumaespana.com>, <lafumafr.com>, <lafumagreece.com>, <lafumahrvatska.com>, <lafumahungary.com>, <lafumaindonesia.com>, <lafumaireland.com>, <lafumaisrael.com>, <lufumaitalia.com>, <lafumajapan.com>, <lafumamalaysia.com>, <lafumamexico.com>, <lafumanederland.com>, <lafumanorge.com>, <lafumanz.com>, <lafumaosterreich.com>, <lufumaperu.com>, <lafumaphilippines.com>, <lafumapolska.com>, <lafumaportugal.com>, <lafumaromania.com>, <lafumasaleuk.com>, <lafumasaudiarabia.com>, <lafumaschweiz.com>, <lafumasingapore.com>, <lafumaslovenia.com>, <lafumaslovensko.com>, <lafumasouthafrica.com>, <lafumasrbija.com>, <lafumasuomi.com>, <lafumasverige.com>, <lafumatr.com>, <lafumauae.com>, <lafumauruguay.com>, <lafumaus.com>, <lafumavenezuela.com> be transferred to Complainant.

/Scott R. Austin/

Scott R. Austin

Sole Panelist

Date: May 7, 2023