

ADMINISTRATIVE PANEL DECISION

Ferd AS v. Rebecca Dunson

Case No. D2023-1245

1. The Parties

The Complainant is Ferd AS, Norway, represented by Onsagers AS, Norway.

The Respondent is Rebecca Dunson, United States of America.

2. The Domain Name and Registrar

The disputed domain name <ferdholding.com> is registered with Eranet International Limited (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 22, 2023. On March 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 4, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Unknown owner/Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 4, 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 April 5, 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 April 12, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 2, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 3, 2023.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on May 5, 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 part of a Norwegian conglomerate owned by the fifth and sixth generations of the Andresen family participating in investments in financial assets, real estate development, investments via external managers, impact investing, and social entrepreneurship.

In addition to the domain name <ferd.no> used by the Complainant to operate its official website, the Complainant is the owner of:

- Norwegian trademark registration No. 208970 for the word mark FERD, filed on November 8, 2000, registered on June 14, 2001, subsequently renewed, in classes 1, 3, 4, 5, 7, 8, 9, 11, 18, 25, 28, 29, 30, 31, 32, 34, 35, 36, 37, 38, 39, 40, 41, and 42; and
- Norwegian trademark registration No. 211113 for the device mark FERD, filed on April 26, 2001, registered on October 11, 2001, subsequently renewed, in classes 1, 3, 4, 5, 7, 8, 9, 11, 18, 25, 28, 29, 30, 31, 32, 34, 35, 36, 37, 38, 39, 40, 41, and 42.

The disputed domain name was registered on January 27, 2023, and presently does not resolve to an active webpage, however, it was previously redirected to the Complainant's official website. The disputed domain name has been used in connection with a fraudulent scam offering fake job offers impersonating the Complainant in conjunction with an elaborate scheme seeking to have the prospective candidates for the job acquire bitcoins. (Annexes 8-12 to the Complaint).

5. Parties' Contentions

A. Complainant

The Complainant asserts to use the name and trademark FERD for more than 20 years in relation to real estate, investments, recruitment, cultural activities and so forth, presently being a large company with an equity capital of more than NOK 40 billion.

The Complainant further indicates that the disputed domain name has been used in connection with a fraudulent scam in which fake job offers were made to people in Canada using the names of employees of the Complainant, as well reproducing the Complainant's logo and inviting the recipients to download the chat application Telegram and inviting them to purchase cryptocurrency as a part of the tasks to be performed by the prospective employees.

Under the Complainant's view, the disputed domain name reproduces the entirety of the Complainant's trademark with the addition of the term "holding", thus conveying the meaning that the disputed domain name relates to the Complainant which is in fact the holding company of the FERD conglomerate.

Moreover, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name given that the Respondent has used the disputed domain name in an unlawful, fraudulent scam impersonating the Complainant in a scam advertising false job offer and inviting the prospective employees to acquire bitcoins.

As to the registration and use of the disputed domain name in bad faith, the Complainant asserts that by sending fraudulent emails impersonating genuine employees of the Complainant as well as the Complainant's logo, the Respondent's behaviour constitutes bad faith registration and use of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth the following three requirements, which have to be met for this Panel to order the transfer of the disputed domain name to the Complainant:

- (i) the disputed 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Complainant must prove in this administrative proceeding that each of the aforementioned three elements is present in order to obtain the transfer of the disputed domain name.

A. Identical or Confusingly Similar

The Complainant has established rights in the FERD trademark duly registered.

The Panel finds that the disputed domain name reproduces the entirety of the Complainant's mark, with the addition of the term "holding". It is well accepted that the first element functions primarily as a standing requirement and that the threshold test for confusing similarity involves a "reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name". See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7. The addition of the term "holding" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark. See [WIPO Overview 3.0](#), section 1.8.

Therefore, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark. The first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a non-exclusive list of circumstances that may indicate the Respondent's rights to or legitimate interests in the disputed domain name. These circumstances are:

- (i) before any notice of the dispute, the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the Respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, in spite of not having acquired trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent, in choosing not to respond, has failed to invoke any of the circumstances which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights to and/or legitimate interests in the disputed domain name. This entitles the Panel to draw any such inferences from such default as it considers appropriate pursuant to paragraph 14(b) of the Rules. Nevertheless, the burden is still on the Complainant

to first make a *prima facie* case against the Respondent (being the overall burden of proof always with the Complainant, but once the 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).

In that sense, the Complainant indeed states that the Respondent has redirected the website at the disputed domain name to the Complainant's official website, and has used the disputed domain name to confuse innocent parties in a fraudulent attempt to defraud third parties into an elaborate scam seeking to benefit from the FERD trademark.

Also, the absence of any indication that the Respondent holds rights in a term corresponding to the disputed domain name, and any possible link between the Respondent and the disputed domain name that could be inferred from the details known of the Respondent corroborate with the Panel's finding of the absence of rights or legitimate interests.

Therefore, the Panel finds that the Respondent lacks rights or legitimate interests in the disputed domain name. The second element of the Policy has also been met.

C. Registered and Used in Bad Faith

This case presents the following circumstances which indicate under the balance of probabilities bad faith registration and use of the disputed domain name:

- a) the Complainant is a relevant conglomerate in Norway, and have been used the name of FERD for more than 20 years;
- b) the use of the disputed domain name in connection with a fraudulent email scam impersonating the Complainant and unduly using information of the Complainant's employees;
- c) the previous use of the disputed domain name for redirection to the Complainant's official website, and the present inactive use of the disputed domain name;
- d) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use of the disputed domain name; and
- e) the indication of false or incomplete information used by the Respondent for registering the disputed domain name, since the Written Notice was undeliverable to the Respondent by courier service.

For the reasons above, the Respondent's conduct has to be considered, in this Panel's view, as bad faith registration and use of the disputed domain name.

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 name <ferdholding.com> be transferred to the Complainant.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Sole Panelist

Date: May 19, 2023