

ADMINISTRATIVE PANEL DECISION

LIVE FAST DIE YOUNG Clothing GmbH v. zahid qasim
Case No. D2024-2038

1. The Parties

The Complainant is LIVE FAST DIE YOUNG Clothing GmbH, Germany, represented by Osborne Clarke Rechtsanwälte Steuerberater Partnerschaft mbB, Germany.

The Respondent is zahid qasim, Germany.

2. The Domain Name and Registrar

The disputed domain name <lfdyofficial.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 15, 2024. On May 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 16, 2024, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 17, 2024, 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 May 22, 2024.

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 May 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 13, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 14, 2024.

The Center appointed Andrea Jaeger-Lenz as the sole panelist in this matter on June 20, 2024. 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 was founded in 2012 and is a manufacturer and distributor of clothing and streetwear seated in Germany. Its products are sold mostly in Central European countries, Germany being its principal market, but are also available worldwide. The Complainant also trades under the acronym LFDY which are the first letters of its company name LIVE FAST DIE YOUNG Clothing GmbH. The Complainant owns trademarks for this designation, amongst others the following (Annex 6):

- International Registration no. 1279475 LFDY (word), with protection for the European Union, Türkiye, United States of America, Switzerland, Liechtenstein and Russian Federation, registered on May 19, 2015, for goods and services in Classes 16, 24, 25, 26, 35, 39, 40, and 42;
- German trademark registration no. 302014034874 LFDY (figurative), registered on August 14, 2014, for goods and services in Classes 16, 24, 25, 26, 35, 39, 40, and 42;
- German trademark registration no. 302014071947 LFDY (word), registered on January 16, 2015, for goods and services in Classes 16, 24, 25, 26, 35, 39, 40, and 42.

The Complainant asserts that it registered the domain name <livefastdieyoung.com> on September 8, 2008, which resolves to the Complainant's principal website and is used for email correspondence with customers and business partners.

The disputed domain name was registered on December 14, 2023. Prior to filing of the Complaint, it resolved to a website displaying the Complainant's trademark and LFDY branded merchandise, and claiming to be LFDY Official Clothes Store and offering "original LFDY products at sale price. Get 30 % off ans [Panelist annotation: typo intentional] fast shipping", in particular hoodies, t-shirts and jackets displaying the , trademark LFDY, designations "Live Fast Die Young", and "Live Fast" and stating "[...]@lfdyofficial.com" as address for correspondence (Annex 8).

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that, on the first element, the disputed domain name is confusingly similar to trademark, in which the Complainant owns rights. It points to its trademark registrations for LFDY, which all predate the registration of the disputed domain name. According to the Complainant, the first four letters of the disputed domain name ("lfdy") are identical to its trademark. Thus, the trademark LFDY is entirely incorporated into the disputed domain name, which already constitutes confusing similarity of the disputed domain name. It claims that the designation LFDY is an artificial term that is unique and highly distinctive in relation to other designations such as dictionary terms. The added term "official" within the disputed domain name does, according to the Complainant, not eliminate the likelihood of confusion, but, on the contrary, increases it. The term "official" is supposed to suggest to the public that the disputed domain name is used for the official or verified distribution of the Complainant's products, which is not the case.

The Top-Level Domain which is “.com“ in this case, is, according to the Complainant, typically disregarded, pointing to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.11.1.

On the second element, the Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant assures that it has never authorized, permitted, or allowed the Respondent in any way to use its trademarks as part of the disputed domain name or for any other purpose. Besides that, there is also no other possible link between the Respondent and the disputed domain name. According to the Complainant, UDRP panels have found that domain names that are identical to a complainant’s trademark carry a high risk of implied affiliation. Where a domain name consists of a trademark plus an additional term (at the second level of the domain), this cannot constitute nominative fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. Moreover, certain geographic terms are seen as tending to suggest sponsorship or endorsement by the trademark owner ([WIPO Overview 3.0](#), section 2.5.1). In this case, the Complainant finds that the incorporation of the Complainant’s trademark in its entirety together with the additional term “official” suggests a sponsorship or endorsement or formal authorization by the trademark owner, which does not exist. In addition, the Complainant alleges that there is no evidence for 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, given that the disputed domain name resolves to a website allegedly offering clothing products displaying the designations LFDY, “Live Fast Die Young”, and “Live Fast” without authorization. Finally, the Complainant claims that it is not apparent that the Respondent has been commonly known by the disputed domain name nor that he 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 at issue.

On the third element, the Complainant claims that the disputed domain name was registered and is being used in bad faith. It finds it is evident that the Respondent has not registered and used the disputed domain name in a bona fide manner, but must – as it is shown by the evidence in Annex 8 – have been fully aware of the Complainant’s trademarks upon registration. According to the Complainant it was clearly registered and used to take unfair advantage of the Complainant’s trademarks. Thus, the Respondent acted in bad faith to suggest an economic relationship with the Complainant that does not exist. To underline this, the Complainant cites text from the website to which the disputed domain name resolves (Annex 8), where the Respondent virtually claims to be the Complainant and – according to the Complainant - uses pictures from the Complainant’s website. The clothing items presented, according to the Complainant, are identical to such streetwear items which the Complainant claims to be known for. Accordingly, consumers visiting the website under the disputed domain name will, the Complainant argues, be misled, thinking that the offering is at least authorized by the Complainant, which it is not. Concluding, the Complainant claims that the Respondent acted with full damaging intent to profit from the Complainant’s trademarks. In addition, it should be taken into account that the Respondent used a privacy service for registration.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here “official”, may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel notes that the composition of the disputed domain name incorporating the Complainant’s trademark with the term “official” suggesting endorsement by the Complainant carries a risk of implied affiliation. Noting the lack of any authorization by the Complainant, the website stating that it is an “official” channel for the Complainant’s products and the disputed domain name’s impersonating content, the Respondent’s use of the disputed domain name does not amount to a bona fide offering of goods or services. On the contrary, panels have held that the use of a domain name for illegal activity, here, impersonation or passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent has registered the disputed domain name incorporating the distinctive and non-descriptive trademark LFDY in its entirety long after the trademarks of the Complainant were registered. The disputed domain name resolves to a website claiming to be an official website of the Complainant's products and displaying text and images that will make Internet users believe that the website is operated by or officially authorized by the Complainant where its clothing items may be

purchased at a reduced price. Small typos in the website text indicate that the Respondent had an active hand in designing the website under the disputed domain name targeting the Complainant's trademark.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity, here, claimed impersonation or passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the Complainant has established the third element 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 name <Ifdyofficial.com> be transferred to the Complainant.

/Andrea Jaeger-Lenz/

Andrea Jaeger-Lenz

Sole Panelist

Date: July 4, 2024