

## ADMINISTRATIVE PANEL DECISION

Fedrigoni S.P.A. v. 于青青 (yu qing qing)

Case No. D2024-4201

### 1. The Parties

The Complainant is Fedrigoni S.P.A., Italy, represented by Dr. Modiano & Associati S.p.A., Italy.

The Respondent is 于青青 (yu qing qing), China.

### 2. The Domain Names and Registrar

The disputed domain names <fabriano.online> and <fedrigoni.online> are registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the "Registrar").

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on October 11, 2024. On October 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On October 12, 2024, 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 sent an email communication to the Complainant on October 14, 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 in English on October 15, 2024.

On October 14, 2024, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain names is Chinese. On October 15, the Complainant confirmed its request that English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant's submission.

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 in English and Chinese of the Complaint, and the proceedings commenced on October 21, 2024. In accordance with

the Rules, paragraph 5, the due date for Response was November 10, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 11, 2024.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on November 15, 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 is part of the Fedrigoni Group, which, the Complainant states, is one of the leading companies in the world, and the leading company in Europe, in the production and sale of special papers for graphic use and self-adhesive products for labels. The Fedrigoni Group also develops stationery products sold through 10 single-brand Fabriano Boutiques. As of 2021, the Group has considerable business operations, including 4,000 employees, 21 production centers and more than 25,000 products in its catalogue which are distributed and sold in 132 countries around the world.

The Complainant owns an international trademark portfolio for its FABRIANO and FEDRIGONI marks, including, but not limited to, the following registered trademarks: Italian Trademark Registration Number 362015000083991 for the word mark FABRIANO, registered on March 7, 2017; United States of America Trademark Registration Number 1557899 for the word mark FABRIANO, registered on September 26, 1989; Italian Trademark Registration Number 0001010027 for the word mark FEDRIGONI, registered on May 30, 2006; and European Union Trademark Registration Number 000597583 for the word mark FEDRIGONI, registered on June 1, 1999.

The Complainant operates its websites at the domain names <fedrigoni.com> and <fabriano.com>.

The disputed domain names were both registered on November 14, 2023, and are therefore of a later date than the Complainant's abovementioned trademarks. The Complainant provides evidence that the disputed domain names both direct to identical active websites on the GoDaddy platform where the disputed domain names are, respectively, each offered, on the date of this Decision, for a "buy now" price of USD 950 or a "Lease to own" price of USD 135.72.

#### **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 names.

Notably, the Complainant contends that the disputed domain names are identical or confusingly similar to its prior registered trademarks. The Complainant also contends that the Respondent has no rights or legitimate interests in respect of the disputed domain names and that the Respondent is not related in any way with or licensed by the Complainant. Furthermore, the Complainant argues that the disputed domain names both point to a parking page where the disputed domain names are offered for a "buy now" price of USD 950, which the Complainant contends constitutes a general offer to sell the disputed domain names for an amount clearly in excess of the out-of-pocket expenses related to the disputed domain names. The Complainant argues that the Respondent has never made any bona fide use of the disputed domain names and that the Respondent has never been known under the disputed domain names. The Complainant argues that the abovementioned elements evidence the Respondent's lack of rights or legitimate interests as well as the Respondent's bad faith. The Complainant also contends that given the distinctiveness of the Complainant's trademarks and their well-known nature, it is reasonable to infer that the Respondent has registered the disputed domain names with full knowledge of the Complainant's trademarks and that such registration

therefore constitutes a registration in bad faith. Finally, the Complainant also contends that the Respondent has been engaged in a pattern of trademark-abusive domain name registrations.

The Complainant requests the transfer of the disputed domain names.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 Preliminary Issue: Language of the Proceeding**

The language of the Registration Agreement for the disputed domain names is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the generic Top-Level Domain for the disputed domain names is ".online", so that the disputed domain names appear to be aimed at Internet users worldwide, particularly in English-speaking countries; the fact that the webpages to which the disputed domain names currently resolve are in English; the fact that English is the language most often used worldwide for business, negotiations and administrative matters, as well as for Internet - and computer-related matters; and the allegation that to proceed in Chinese would slow the proceedings and create further difficulties and costs for the Complainant, who is not familiar with Chinese; and finally also the allegation that the Respondent appears to be a serial cybersquatter and the fact that the Respondent has already been involved in at least 19 prior UDRP proceedings, of which 17 were held in English.

The Respondent did not make any submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

### **6.2 Findings on the merits.**

#### **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 names. [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 Panel finds the disputed domain names only consist of, respectively, the Complainant's FABRIANO and FEDRIGONI trademarks, and are therefore identical to those registered trademarks. [WIPO Overview 3.0](#), section 1.7.

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 names. 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 names such as those enumerated in the Policy or otherwise.

Furthermore, the Panel notes that there are no elements in this case that point to the Respondent having made any reasonable and demonstrable preparations to use the disputed domain names in connection with a bona fide offering of goods or services. According to the evidence, the Respondent only connected the disputed domain names to a parked page offering it for sale for a “buy now” price of USD 950, and on the date of this Decision also for a “Lease to own” price of USD 135.72, which are amounts most likely in excess of out-of-pocket costs relating to the disputed domain names. The Panel finds that such use does not confer rights or legitimate interests in the disputed domain names.

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.

Given the intensive use and distinctiveness of the Complainant’s various prior registered trademarks, the Panel finds that the subsequent registration of the disputed domain names, which are identical to such marks, clearly and consciously targeted the Complainant’s prior registered trademarks. The Panel takes notes that the Complainant operates its websites at the domain names <fedrigoni.com> and <fabriano.com>. The Panel also notes that these trademarks have already been considered well-known by other panels applying the Policy (see for instance *Fedrigoni S.P.A v. Michael Nava, Domain Nerdz LLC*, WIPO Case No. [DCO2021-0094](#)). The Panel finds that this creates a presumption of bad faith. In this regard, the Panel refers to the [WIPO Overview 3.0](#), section 3.1.4, which states “[p]anel[s] 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 famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.” Furthermore, the Panel also notes that the Complainant’s trademarks were registered several years before the registration date of the disputed domain names. The Panel deducts from these elements that the Respondent knew, or at least should have known, of the existence of the Complainant’s trademarks at the time of registering the disputed domain names. In the Panel’s view, these elements indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain names in bad faith.

As to use of the disputed domain names in bad faith, the evidence of use of the websites linked to the disputed domain names demonstrates that the Respondent is attempting to sell the disputed domain names for an amount most likely in excess of the Respondent's out-of-pocket costs related to the disputed domain names, i.e., for a "buy now" price of USD 950, and on the date of this Decision also for a "Lease to own" price of USD 135.72. This leads the Panel to conclude, on balance of the probabilities, that the Respondent is using the disputed domain names to try to sell them to the Complainant, who is the owner of the corresponding trademarks, or to competitors or other parties and to obtain unjustified financial benefits through such sale. The Panel notes that this constitutes direct evidence of bad faith of the Respondent under paragraph 4(b)(i) of the Policy.

Additionally, the Panel also finds that the Respondent has clearly been engaged in a pattern of trademark-abusive domain name registrations. In this regard, the Panel refers to the Complainant's evidence from which it appears that the Respondent has been involved as a respondent in no less than 19 prior procedures under the Policy, where the respective panels have found that the Respondent had registered and used the respective domain names in bad faith, see for instance: *Antonio Lupi Design S.p.A. v. 于青青 (yu qing qing)*, WIPO Case No. [D2024-2243](#); *Petit Bateau v. 于青青 (yu qing qing)*, WIPO Case No. [D2024-0458](#); *Bonduelle SA v. 于青青 (yu qing qing)*, WIPO Case No. [D2024-0002](#); and *Laboratoires Expanscience v. 于青青 (Yu Qing Qing)*, WIPO Case No. [D2023-5312](#).

Based on the above elements, the Panel finds that the disputed domain names were registered and are being used in bad faith.

The Panel therefore 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 names <fabriano.online> and <fedrigoni.online> be transferred to the Complainant.

/Deanna Wong Wai Man/

**Deanna Wong Wai Man**

Sole Panelist

Date: November 19, 2024