

## **ADMINISTRATIVE PANEL DECISION**

**Heaven Hill Distilleries, Inc. v. James Dobbins**  
**Case No. D2025-1073**

### **1. The Parties**

The Complainant is Heaven Hill Distilleries, Inc., United States of America (“United States”), represented by Wyatt, Tarrant & Combs, United States.

The Respondent is James Dobbins, United States.

### **2. The Domain Name and Registrar**

The disputed domain name <oldfitzgerald.com> is registered with Hostinger Operations, UAB (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 14, 2025. On March 17, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 18, 2025, 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 (Domain Admin) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 18, 2025, 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 March 22, 2025.

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 March 25, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 14, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 17, 2025.

The Center appointed Kathryn Lee as the sole panelist in this matter on April 29, 2025. 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 a family-owned and operated distillery and spirits supplier located in the United States. The Complainant has a portfolio of whiskeys, liqueurs, vodkas, rums, and other spirits, among which is Old Fitzgerald bourbon whiskey which the Complainant acquired in 1999. The sale of Old Fitzgerald bourbon whiskey began in 1889 in the United States and in 1904 in Italy, Germany, France, and the United Kingdom. The Complainant owns a number of trademark registrations in the United States and worldwide for the OLD FITZGERALD mark including the following: United States Trademark Registration Number 310079 registered on February 13, 1934, Venezuela Trademark Registration Number F057054 registered on February 16, 1970, Benelux Trademark Registration Number 906 registered on January 11, 1971, and Russian Federation Trademark Registration Number 50420 registered on August 22, 1974.

The Respondent appears to be an individual with an address in the United States.

The disputed domain name was registered on July 7, 2024 and is not connected to any active website.

#### **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 the disputed domain name is confusingly similar to the OLD FITZGERALD marks in which the Complainant has rights since the disputed domain name consists of "oldfitzgerald" exactly and therefore it is identical to the Complainant's marks in sight, sound, and meaning.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name and confirms that it has not authorized or licensed rights to the Respondent in any respect. The Complainant further contends that there is no evidence of the Respondent's use of, or demonstrable preparations to use the disputed domain name in providing any bona fide offering of goods or services, nor any evidence that the Respondent has been commonly known by the disputed domain name, or a legitimate noncommercial or fair use of the disputed domain name by the Respondent.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant contends that the disputed domain name is an exact replica of the Complainant's mark, and therefore, it is clear that the Respondent registered the disputed domain name in order to prevent the owner of the trademark from reflecting the mark in the corresponding domain name, which is evidence of bad faith registration and use. The Complainant also contends that by registering the disputed domain name, the Respondent created a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. Lastly, the Complainant contends that the Respondent used a privacy service which implies bad faith on the part of the Respondent as it may cause consumer confusion with the Complainant.

##### **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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[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 identical to the mark for the purposes of the Policy. [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 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.

Furthermore, the disputed domain name is identical to the Complainant's trademark, and therefore carries a high risk of implied affiliation. Accordingly, the Respondent's use of the disputed domain name is not considered to be "fair." [WIPO Overview 3.0](#), section 2.5.1.

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 registered the disputed domain name which corresponds exactly to the OLD FITZGERALD trademark in which the Complainant has rights. Given the distinctiveness of the trademark, the long history of the sale of the product using the trademark, and the registration of the disputed domain name only recently in 2024, the Panel finds that the Respondent targeted

the Complainant in registering the disputed domain name, and that the Respondent likely did so in order to sell it to the Complainant at a profit or to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark. It is highly improbable that the disputed domain name was registered in good faith and without knowledge of the Complainant's trademarks.

The Respondent did not connect the disputed domain name to any active website. But UDRP panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness of the Complainant's trademark and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of 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 <[oldfitzgerald.com](http://oldfitzgerald.com)> be transferred to the Complainant.

*/Kathryn Lee/*  
**Kathryn Lee**  
Sole Panelist  
Date: May 12, 2025