

ADMINISTRATIVE PANEL DECISION

Fruit Of The Loom, Inc. v. Matthias Friedman
Case No. D2024-4783

1. The Parties

The Complainant is Fruit Of The Loom, Inc., United States of America (“United States”), represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Matthias Friedman, Germany.

2. The Domain Name and Registrar

The disputed domain name <fruitoftheloommx.com> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 20, 2024. On November 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 21, 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 (DT), Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 21, 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 amended Complaint on November 26, 2024.

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 November 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 17, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 20, 2024.

The Center appointed Catherine Slater as the sole panelist in this matter on December 29, 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 a company based in the United States and is engaged in the design, manufacture, and sale of underwear and casualwear. The company's origins date from 1851 and it now operates in 44 countries and employs over 28,000 people worldwide.

The Complainant is the owner of trademark registrations across various jurisdictions, including:

- European Union Registration 731737 for FRUIT OF THE LOOM (plain word mark) registered on April 17, 2000;
- United States Registration 174998 for FRUIT OF THE LOOM registered on October 30, 1923;
- Mexico Registration 2324999 for FRUIT OF THE LOOM (plain word mark) registered on November 17, 2021

These registrations are hereafter together referred to as the "Complainant's Trademark".

The Complainant is also the owner of many domain names including <fruitoftheloom.com> which was registered on September 12, 1999 and <fruitoftheloom.mx> which was registered on September 1, 2009.

The evidence submitted shows that the Complainant uses the Complainant's Trademark as part of a logo (the "Complainant's Logo") consisting of a graphic depiction of various fruits and their leaves above the stylized words "FRUIT OF THE LOOM".

The Respondent is an individual based in Germany who registered the disputed domain name on August 14, 2024. At the time of filing the Complaint, the disputed domain name resolved to a website the front page of which included the Complainant's Logo, a "Shop Now" button, and appeared to offer for sale sweatshirts and sweatpants. The disputed domain name does not currently resolve 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 Complainant's Trademark since it reproduces that trademark and merely adds the letters "mx" which is an abbreviation of "Mexico". The Complainant says that the addition of such geographical term is not sufficient to overcome a finding of confusing similarity and indeed is likely to heighten confusion as users would reasonably believe the disputed domain name is affiliated with the Complainant's business in Mexico.

The Complainant further contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name and in this regard says that it is not affiliated with the Respondent in any way, has not given the Respondent permission to use the Complainant's Trademark, that there is no evidence that the Respondent is commonly known by the disputed domain name and the use by the Respondent of a privacy service equates to a lack of legitimate interest. The Complainant further contends that the Respondent's use of the disputed domain name amounts to "passing off" and is neither a bona fide offering of goods nor a legitimate noncommercial or fair use of it.

The Complainant further contends that the disputed domain name was registered and used in bad faith because the Respondent targeted the Complainant with the intention of using the disputed domain name to pass itself off as the Complainant, because the Complainant's Trademark is so well-known that use of it is opportunistic bad faith and because the imitation of the Complainant's website and use of the Complainant's Logo is an attempt by the Respondent to pass itself off as 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 Complainant's Trademark 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, "mx", 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 finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

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.

It is inconceivable that, at the time of registration of the disputed domain name, the Respondent was unaware of the Complainant and/or the Complainant's Trademark. That knowledge of the Respondent is demonstrated by the fact that after registration, the Respondent pointed the disputed domain name to a website that used the Complainant's Logo (which includes the Complainant's Trademark) in order to offer for sale clothing products of the type offered by the Complainant. In short, the Respondent targeted the Complainant by registering the disputed domain name for the purpose of impersonating (or at least giving the impression of a connection with) the Complainant which, as discussed below, amounts to "bad faith use".

The Panel therefore finds that the disputed domain name was registered in bad faith.

Paragraph 4(b)(iv) of the Policy sets out an example circumstance that amounts to use in bad faith as follows:

"by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location."

The Respondent used the disputed domain name for a website which falsely gave Internet users the impression that it was the Complainant's online store in the Mexico market and in so doing the Respondent used the disputed domain name to intentionally attempt to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's Trademark as to the source, sponsorship, affiliation or endorsement of its website. The Panel therefore finds that the disputed domain name has been used in bad faith in accordance with the circumstances set out in paragraph 4(b)(vi) of 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 <fruitoftheloommx.com> be transferred to the Complainant.

/Catherine Slater/

Catherine Slater

Sole Panelist

Date: January 10, 2025