

ADMINISTRATIVE PANEL DECISION

Pure Fishing, Inc. v. BergeronRichard
Case No. D2024-5358

1. The Parties

The Complainant is Pure Fishing, Inc., United States of America (“United States” or “U.S.”), represented by Neal & McDevitt, United States.

The Respondent is BergeronRichard, United States.

2. The Domain Name and Registrar

The disputed domain name <finnofishinggear.shop> (the “Disputed Domain Name”) is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 31, 2024. On January 2, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On January 3, 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 / Privacy Protect, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 6, 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 January 7, 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 January 13, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 2, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 5, 2025.

The Center appointed Purvi Patel Albers as the sole panelist in this matter on February 13, 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 U.S. corporation organized in the state of Iowa. The Complainant is a global provider of fishing tackle, lures, rods, and reels and owns a collection of fishing brands, including the FIN-NOR brand. The Complainant, both directly and indirectly through its licensees, related entities, and predecessors-in-interest, contends it has used the FIN-NOR mark in connection with fishing rods and reels since at least 1954 and sunglasses and related fishing apparel since at least 2022. The Complainant operates an online retail store of its fishing gear and accessories at the domain name <fin-nor.com>.

The Complaint includes evidence of ownership of U.S. trademark registrations for FIN-NOR, including:

- U.S. Registration No. 3,138,587 for FIN-NOR (registered September 5, 2006) for use in connection with “fishing rods and reels,” and
- U.S. Registration No. 6,790,340 for FIN-NOR (registered July 12, 2022) for use in connection with “sunglasses; eyewear.”

The Disputed Domain Name was created on August 13, 2024. It resolves to a website purportedly selling a variety of FIN-NOR branded fishing gear and incorporates the Complainant’s own images of its FIN-NOR branded products. The website also features prominent use of the FIN-NOR mark to identify the sources of the goods and the online retail store.

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 it has rights in the FIN-NOR mark due in part to the registrations cited above. The Complainant further asserts that the Disputed Domain Name is confusingly similar to the FIN-NOR mark because it wholly incorporates the mark and merely adds the descriptive phrase “fishing gear.”

The Complainant also contends that the Respondent has no rights or legitimate interests in the Disputed Domain Name. The Complainant asserts that there has never had any relationship with the Respondent that would give rise to any license, sponsorship, permission, or authorization for the Respondent to use or register the Disputed Domain Name, and the Respondent is not commonly known by the terms in the Disputed Domain Name. The Complainant further asserts that the Respondent is not using the Disputed Domain Name in connection with a bona fide offering of goods or services nor in a legitimate non-commercial or fair manner because the Respondent is using the Disputed Domain Name to confuse consumers by suggesting it is affiliated with the Complainant.

Finally, the Complainant contends that the Disputed Domain Name was registered and is being used in bad faith because, among other things, the Respondent attempted to trade off the Complainant’s goodwill by confusing consumers into believing that the Disputed Domain Name and its content are somehow affiliated with the Complainant, and the Respondent has demonstrated a pattern of conduct that evidences bad faith.

B. Respondent

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

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, to succeed in this dispute, the Complainant must establish that:

- i. the Disputed Domain Name is identical or confusingly similar to a trademark in which the Complainant has rights,
- 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.

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 for purposes of the Policy through the trademark registrations cited above. Thus, the Complainant has provided prima facie evidence of trademark rights. [WIPO Overview 3.0](#), section 1.2.1.

The Panel also finds that the Disputed Domain Name is confusingly similar to the Complainant's FIN-NOR mark. Where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing. [WIPO Overview 3.0](#), section 1.7. Here, the entirety of the mark is reproduced within the Disputed Domain Name. The Disputed Domain Name merely omits the hyphen in the registered trademarks and additionally includes the descriptive terms "fishing gear." The Panel finds that the mark is clearly recognizable within the Disputed Domain Name and the Disputed Domain Name is thus confusingly similar to the mark.

Although the addition of the other terms, namely, "fishing gear," may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the Disputed Domain Name and the FIN-NOR mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8 ("Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element").

Further, UDRP Panel Decisions have held that "punctuation marks such as hyphens cannot on their own avoid a finding of confusing similarity." See *Di El Industrie-Electronic GmbH and TR Electronic v. E-Orderdesk*, WIPO Case No. [D2007-0961](#) ("the use or absence of punctuation marks such as hyphens does not alter the fact that the domain name at issue is identical or confusingly similar to the trademark at issue").

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 Disputed Domain Name was registered 18 years after the Complainant received its first U.S. registration for the FIN-NOR mark and more than 50 years after the Complainant began using the mark. The Complainant has not authorized the Respondent to use said mark or register a domain name incorporating it. There is also no evidence showing that the Respondent is, or has been, known as “finnorfishinggear” or similar.

Furthermore, the Complainant has shown that the Respondent has no legitimate interests in respect of the Disputed Domain Name. The Respondent appears to be using the Complainant’s mark in an effort to imitate the Complainant and trick consumers into believing that the Respondent’s site is affiliated with the Complainant. Panels have held that the use of a domain name for illegitimate activity, such as claimed impersonation, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

While there are circumstances in which a reseller or distributor of another’s goods could have a legitimate interest in a confusingly similar domain name, the fact that the Disputed Domain Name was registered using a privacy shield and there is no evidence of any relationship between the Respondent and the Complainant supports the Complainant’s contentions. [WIPO Overview 3.0](#), section 2.8.1(iii) (“the site must accurately and prominently disclose the registrant’s relationship with the trademark holder”).

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.

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 particular, paragraph 4(b)(iv) of the Policy provides that the intentional use of a domain name to attract users to a website for commercial gain, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the website, establishes bad faith in the registration and use of the domain name.

In the present case, the Respondent registered the Disputed Domain Name 18 years after the Complainant’s registration of the mark. Given the Complainant’s prior use of the FIN-NOR mark, the Respondent’s use of the Disputed Domain Name to offer FIN-NOR branded fishing gear, and the prominent adoption of the FIN-NOR mark on the Respondent’s website, the Panel finds it implausible that the Respondent was unaware of the Complainant’s rights in the FIN-NOR mark when registering the Disputed Domain Name.

Further, the Panel notes that the Respondent is using the Disputed Domain Name for its own commercial gain by creating a likelihood of confusion as to the source or affiliation of its website. The Respondent is using the Complainant’s FIN-NOR mark and the Complainant’s own product images to trick consumers into

believing the Disputed Domain Name is somehow associated with the Complainant. The Respondent attempted to profit off the Complainant's reputation by purporting to sell identical, FIN-NOR branded fishing gear in connection with an online site prominently featuring the Complainant's mark.

The Panel also notes there appears to be at least seven prior domain name decisions against the Respondent entailing a similar set of facts and resulting in a finding of registration and use in bad faith under paragraph 4(b)(iv). See *Belgravia Wood Limited v. BergeronRichard*, WIPO Case No. [D2025-0027](#); *Covercraft Industries, LLC v. BergeronRichard*, WIPO Case No. [D2024-4746](#); *Belgravia Wood Limited v. BergeronRichard*, WIPO Case No. [D2024-4569](#); *Yakima Products, Inc. v. BergeronRichard*, WIPO Case No. [D2024-4420](#); *Ellos AB v. BergeronRichard*, WIPO Case No. [D2024-4125](#); *Colgate-Palmolive Company, Hill's Pet Nutrition, Inc., and The Murphy-Phoenix Company v. BergeronRichard*, DODSONCLAYTON, du yan, and KathleenCarter, WIPO Case No. [D2024-3853](#); and *Williams-Sonoma, Inc. v. BergeronRichard*, WIPO Case No. [D2024-3348](#). The Respondent appears to have engaged in a pattern of registering domain names closely corresponding with the names of known commercial enterprises and prominently using the complainants' marks for the sale of similar product offerings. This evidence is sufficient to show a pattern of conduct that is further evidence of bad faith under paragraph (4)(b) of the Policy. See, e.g., *Crescent Point Energy Corp. v. Adex Adex*, WIPO Case No. [D2017-1980](#) ("UDRP panels have held that establishing a pattern of bad faith conduct requires more than one, but as few as two instances of abusive domain name registration.").

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 <finnorfishinggear.shop> be transferred to the Complainant.

/Purvi Patel Albers/

Purvi Patel Albers

Sole Panelist

Date: February 27, 2025