

ADMINISTRATIVE PANEL DECISION

Fisher Asset Management, LLC v. HENRI MARCEL, HM FINANCE and Mathieu FILLOT

Case No. D2025-0731

1. The Parties

The Complainant is Fisher Asset Management, LLC, United States of America (“United States”), represented by CSC Digital Brand Services Group AB, Sweden.

The Respondents are HENRI MARCEL, HM FINANCE, France, and Mathieu FILLOT, France.

2. The Domain Names and Registrar

The disputed domain names <fisherinvestments-france.com> and <fisherinvestmentsfrance.com> are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 21, 2025. On February 24, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On February 24, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondents and contact information in the Complaint.

The Center sent an email communication to the Complainant on February 27, 2025, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint on March 4, 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 Respondents of the Complaint, and the proceedings commenced on March 7, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 27, 2025. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on March 28, 2025.

The Center appointed Richard C.K. van Oerle as the sole panelist in this matter on April 2, 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 was incorporated in the United States in 1979 and operates an investment advisory business with 6,000 employees serving over 170,000 clients globally and has (including its subsidiaries) over USD 299 billion in assets under management. The Complainant's Trademark has been recognized as being well known by prior UDRP panels. See *Fisher Asset Management LLC d/b/a Fisher Investments v. Sergey*, WIPO Case No. [D2018-0336](#).

The Complainant holds numerous trademarks registrations for FISHER INVESTMENTS on a worldwide basis, inter alia:

- European Union Trademark Registration n° 013338595, registered on February 5, 2015,
- United States of America Trademark Registration n° 5605365, registered November 13, 2018,
- Canadian Trademark Registration n° TMA896077, registered February 9, 2015.

All registrations have been duly renewed and are still valid. The registrations will jointly be referred to, in singular, as the "Trademark".

The Complainant owns several domain names that comprise of, or contain, the trademark FISHER INVESTMENTS, including the domain name <fisherinvestments.com> which hosts its main website.

The disputed domain name <fisherinvestments-france.com> was registered on February 10, 2025; the disputed domain name <fisherinvestmentsfrance.com> was registered on December 6, 2024.

The disputed domain names direct to an inactive website. However, according to Annex 3 to Complaint, before the Complaint was filed the disputed domain names both resolved to a pay-per-click (PPC) landing-page displaying commercial advertising links to services competing with the services of the Complainant.

Furthermore, evidence provided as Annex 10 to Complaint submits evidence of MX records associated with the disputed domain name <fisherinvestments-france.com>, indicating that the Respondents have set up an email account using this disputed domain name.

The Complainant has summoned the Respondents by sending an email on December 9, 2024, to the contact address of the privacy service to further cease and desist the use of the Trademark and to disable the disputed domain name <fisherinvestmentsfrance.com>. No answer was received.

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 can be considered as capturing, in its entirety, the Complainant's Trademark and simply adding the geographical location "France" to the end of the trademark, and a hyphen does not distinguish the disputed domain names. The mere addition of this geographical location to the Complainant's Trademark does not negate the confusing similarity between the disputed domain names.

The Complainant further asserts that the Respondents lack any rights or legitimate interests in the disputed domain names based on: the Respondent are not commonly known by the disputed domain names, not having the Complainant licensed, authorized, or permitted the Respondents to register domain names incorporating the Complainant's trademark; the lack of any evidence that the Respondents, identified by the Registrar as "Henri Marcel, HM Finance" and "Mathieu Fillot", are commonly known by the disputed domain names; the Respondents chose to use a privacy Whois service; the disputed domain names were used to redirect Internet users to a website featuring links to third-party websites (pay-per-click advertising) some of which directly compete with the Complainant's business; the Complainant's longstanding rights in its Trademark, well-predating registration of the disputed domain names.

Furthermore, in regard to <fisherinvestmentsfrance.com>, prior to the Complainant requesting takedown actions, this disputed domain name was used to facilitate email phishing attacks, targeting clients of the Complainant. Specifically, this disputed domain name has been used to send out email communications from the email address <[...]¹@fisherinvestmentsfrance.com>, purporting to originate from [...] the name of a senior employee from the Complainant's business, to contact clients of the Complainant in an attempt to intercept business for the Respondents' own gain.

The Complainant argues that the Respondents have registered and used the disputed domain names in bad faith for numerous reasons, including: the well-known nature of the Complainant's services offered under the Trademark with use and trademark registrations across numerous countries well before the Respondents' registrations; registering domain names that comprise the entirety of the Trademark in conjunction with a geographic indicator and a hyphen; it is not possible to conceive of a plausible situation in which the Respondents would have been unaware of the Trademark at the time the disputed domain names were registered; the configuration of <fisherinvestmentsfrance.com> with MX records and actual use for purposes of phishing attacks, and <fisherinvestments-france.com> has also been set up with mail exchanger (MX) records, which may be involved in a future phishing or fraud; the disputed domain names were used to redirect Internet users to a website featuring links to third-party websites (PPC advertising) some of which directly compete with the Complainant's business; the Respondents' failure to respond to cease-and-desist correspondence; and the Respondents' use of a privacy service to hide its identity;

The Complainant requests that the disputed domain names be transferred to the Complainant.

B. Respondents

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

6. Discussion and Findings

6.1 Procedural Issues - Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

¹ Redacted by Panel, for privacy reasons.

The disputed domain name registrants did not comment on the Complainant's request. Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See [WIPO Overview 3.0](#), section 4.11.2.

As regards common control, the Panel notes: 1) the similarity in composition, with the only differing element being a hyphen in one disputed domain name; 2) both disputed domain names were registered through the same registrar, Namecheap Inc.; 3) both disputed domain names are used to target the Complainant in the same way introducing the geographical location "France" to the disputed domain names; 4) for both registrations the Privacy service provided by Withheld for Privacy, ehf was used and 5) both disputed domain names have been used to host PPC content.

In view of these circumstances, the Panel is persuaded that both disputed domain names are under common control.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

6.2 Substantive Issues

Paragraph 4(a) of the Policy provides that a complainant must prove each of the following three elements in order to succeed in its Complaint:

- (i) the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the complainant has rights; and
- (ii) the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) the domain name has been registered and is being used in bad faith.

The burden of proof of each element is borne by the Complainant. The Respondent's default does not by itself mean that the Complainant is deemed to have prevailed. See [WIPO Overview 3.0](#), section 4.3.

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 Panel finds the Trademark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here "france" and "-france") may bear on the 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 names and the Trademark 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.

In the view of the Panel, the Complainant’s submissions set out above under section 5.A give rise to a prima facie case that the Respondent has no rights or legitimate interests in respect of 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.

Panels have held that the use of a domain name for illegal activity, here, claimed phishing and impersonation, 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.

On the issue of registration, taking into account the composition of the disputed domain names and the distinctive nature of the Complainant’s Trademark, the Panel is satisfied that the Respondent knew of and targeted the Complainant’s Trademark when it registered the disputed domain names (see *Fisher Asset Management LLC d/b/a Fisher Investments v. Sergey*, WIPO Case No. [D2018-0336](#) (“the notoriety of the Complainant’s mark all around the world”); *Fisher Asset Management LLC d/b/a Fisher Investments v. Withheld for Privacy Purposes, Privacy service provided by Withheld for Privacy ehf / Kekek Pekek*, WIPO Case No. [D2021-1517](#) (“[g]iven the global reach and popularity of the Complainant’s investment management and investment advisory services under the FISHER INVESTMENTS Trademark”); *Fisher Asset Management, LLC v. Domain Admin*, WIPO Case No. [D2023-3801](#) (“the well-known status of the Complainant’s trademark”)).

In the present case, the Panel notes that the Respondent has registered the disputed domain names composed of the identical Trademark of the Complainant and only adding “france” and “-france” respectively.

There is evidence in the record provided by the Complainant that the email address [...]@fisherinvestmentsfrance.com, using the name of a senior employee of the Complainant’s company, was used in an attempt to intercept business for Respondent’s own benefit. This is sufficient to raise a presumption of bad faith use.

Panels have held that the use of a domain name for illegal activity, here claimed phishing and impersonation/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 names 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 names <fisherinvestments-france.com> and <fisherinvestmentsfrance.com> be transferred to the Complainant.

/Richard C.K. van Oerle/

Richard C.K. van Oerle

Sole Panelist

Date: April 7, 2025