

ADMINISTRATIVE PANEL DECISION

Fruit Of The Loom, Inc. v. CEmanuelRobert and GCarlsonFranklin
Case No. D2025-0984

1. The Parties

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

The Respondent is CEmanuelRobert and GCarlsonFranklin, U.S.

2. The Domain Names and Registrar

The disputed domain names <bestformlingeriesoldes.com> and <frbestformlingerie.com> (the "Disputed Domain Names") are registered with Realtime Register B.V. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 11, 2025. On March 11, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Names. On March 12, 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 Respondent (NL) and contact information in the Complaint

The Center sent an email communication to the Complainant on March 13, 2025 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaint 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 both of the Disputed Domain Names are under common control. The Complainant filed an amended Complaint on March 18, 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 24, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 13, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 17, 2025.

The Center appointed Douglas M. Isenberg as the sole panelist in this matter on April 25, 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 states that it “was born in 1851, that it “is now a global underwear and casualwear business operating in 44 countries,” that it “is classed as one of the largest manufacturers and marketers of men’s and boys’ underwear, women’s and girls’ underwear, printable T-shirts and fleece for the activewear industry, casualwear, women’s jeanswear, and childrenswear,” and that it “currently employs more than 32,400 people worldwide.” The Complainant further states, and provides documentation to support, that “[i]n 2007, Vanity Fair completed the sale of its global intimate apparel business – Bestform, to Fruit of the Loom” and that Vanity Fair is “a wholly owned subsidiary of” the Complainant. The Complainant further states that it is the registrant of 12 domain names that include the term “bestform”, including <bestform.com> (created on December 15, 1999) and <bestform-lingerie.com> (created on February 22, 2013).

The Complainant states, and provides documentation to support, that its wholly owned subsidiary Vanity Fair owns “trademark registrations across various jurisdictions” for the mark BESTFORM (the “BESTFORM Trademark”), including the following:

- U.S. Reg. No. 920,260 for BESTFORM (registered September 14, 1971) for use in connection with lingerie;
- French Reg. No. 1640025 for BESTFORM (registered January 22, 1991) for use in connection with, inter alia, clothing and underwear; and
- United Kingdom Reg. No. 00001424464 for BESTFORM (registered May 8, 1992) for use in connection with, inter alia, articles of underclothing.

Each of the Disputed Domain Names was created on October 18, 2024. The Complainant states, and provides documentation to support, that the Disputed Domain Names were previously used “to host websites which prominently feature(d) the BESTFORM trademark and logotype, while offering for sale competing goods branded with Complainant’s ‘B’ logo.” Following what the Complainant describes as “takedown actions” from the “Complainant’s representatives”, the Disputed Domain Names are no longer associated with active websites.

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:

- Each of the Disputed Domain Names is identical or confusingly similar to the BESTFORM Trademark because “[b]y virtue of its trademark and service mark registrations [...], Complainant is the owner of BESTFORM trademarks”; “Respondent has added the generic, descriptive terms ‘fr’, ‘lingerie’ and ‘soldes’ to Complainant’s BESTFORM trademark, thereby making the Disputed Domain Names confusingly similar to Complainant’s trademark”; “the terms ‘lingerie’ and ‘soldes’ are closely linked and associated with Complainant’s brand and trademark, that its use only serves to underscore and increase the confusing similarity between the Disputed Domain Names and the Complainant’s trademark”; “[p]ast Panels have consistently held that a disputed domain name that consists merely of a complainant’s trademark and an additional term that closely relates to and describes that complainant’s business is confusingly similar to that complainant’s trademarks”; “the geographically

descriptive term 'fr', the two-letter abbreviation for France [...] does not sufficiently differentiate the disputed domain name from that trademark"; and "Respondent's previous use of the Disputed Domain Names contributes to the confusion."

- The Respondent has no rights or legitimate interests in the Disputed Domain Names because, inter alia, "Respondent is not sponsored by or affiliated with Complainant in any way"; "Complainant has not given Respondent permission to use Complainant's trademarks in any manner, including in domain names"; "Respondent is not commonly known by the Disputed Domain Names"; "Complainant has not licensed, authorized, or permitted Respondent to register domain names incorporating Complainant's trademark"; Respondent's inclusion of Complainant's BESTFORM trademark and logotype on the Disputed Domain Names' websites is a direct effort to take advantage of the fame and goodwill that Complainant has built in its brand and Respondent is not only using the confusingly similar Disputed Domain Names, but is also imitating Complainant by displaying the Complainant's trademark and logotype"; and "Respondent was using the Disputed Domain Names in connection with commercial websites which offer(ed) and attempt(ed) to sell products branded with Complainant's stylized 'B' trademark."
- The Respondent registered and is using the Disputed Domain Names in bad faith because, inter alia, "BESTFORM is so closely linked and associated with Complainant that Respondent's use of this mark, or any minor variation of it, strongly implies bad faith"; "Respondent creates a likelihood of confusion with Complainant and its trademarks by using the Disputed Domain Names in connection with commercial websites, which prominently feature the BESTFORM logotype and trademark, with Respondent then attempting to profit from such confusion by offering for sale products branded with Complainant's stylized 'B' trademark, which at best are Complainant's own products and at worst, counterfeit products"; "Respondent's use of the Disputed Domain Names constitutes a disruption of Complainant's business and qualifies as bad faith registration and use under Policy ¶4(b)(iii) because Respondent's domain names are confusingly similar to Complainant's trademarks and the websites at the Disputed Domain Names have been used to offer Complainant's goods or services without Complainant's authorization or approval"; and "Respondent provided false Whois information to the relevant registrar (noted to be in breach of its registration agreement)" because "Respondent's Whois reflects the addresses based in Oklahoma, US, while the phone numbers provided are from different states entirely. For <frbestformlingerie.com>, the area code for the phone number provided (951) is for California, and for <bestformlingeriesoldes.com>, the phone area code (646) belongs to New York, while the owner of the number itself appears to be based in Bedford, Texas."

B. Respondent

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

6. Discussion and Findings

Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants, but the Complainant alleges that the domain name registrants "are under common control" and requests the consolidation of the Complaint against the multiple disputed domain name registrants, referring to paragraphs 3(c) and 10(e) of the Rules.

Paragraph 3(c) of the Rules states: "The complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder." Paragraph 10(e) of the Rules states: "A Panel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules."

WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 4.11.2, states:

“Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario.

Panels have considered a range of factors, typically present in some combination, as useful to determining whether such consolidation is appropriate, such as similarities in or relevant aspects of (i) the registrants’ identity(ies) including pseudonyms, (ii) the registrants’ contact information including email address(es), postal address(es), or phone number(s), including any pattern of irregularities, (iii) relevant IP addresses, name servers, or webhost(s), (iv) the content or layout of websites corresponding to the disputed domain names, (v) the nature of the marks at issue (e.g., where a registrant targets a specific sector), (vi) any naming patterns in the disputed domain names (e.g., <mark-country> or <mark-goods>), (vii) the relevant language/scripts of the disputed domain names particularly where they are the same as the mark(s) at issue, (viii) any changes by the respondent relating to any of the above items following communications regarding the disputed domain name(s), (ix) any evidence of respondent affiliation with respect to the ability to control the disputed domain name(s), (x) any (prior) pattern of similar respondent behavior, or (xi) other arguments made by the complainant and/or disclosures by the respondent(s).”

Here, the Complainant notes that both of the Disputed Domain Names were registered with the same Registrar on the same date; that both of the Disputed Domain Names contain the BESTFORM trademark plus the word “lingerie” and French terms; that both of the Disputed Domain Names were used in connection with similar websites; and that the underlying registrants of both of the Disputed Domain Names contain addresses in Oklahoma, U.S. and use email addresses that include the same domain name (which the Panel notes does not appear to be associated with an email service provider).

The registrant(s) of the Disputed Domain Names did not comment on the Complainant’s request.

As regards common control, the Panel agrees with the Complainant that the similarities noted above make it most likely that both of the Disputed Domain Names are subject to 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.

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 that Vanity Fair is the owner of multiple registrations for the BESTFORM Trademark. However, it does not follow, as Complainant has stated, that “Complainant is the owner of BESTFORM trademarks.” In fact, it is clear that Vanity Fair – not Complainant – is the owner of such trademarks. However, Complainant has stated, and provided documentation in support thereof, that the Complainant acquired Vanity Fair in 2007 and that Vanity Fair is now “a wholly owned subsidiary of” the Complainant. Therefore, the question is whether, as a result of this relationship, the Complainant “has rights” in the BESTFORM Trademark for purposes of the Policy, given that Vanity Fair is not a party to this proceeding. Fortunately for the Complainant, [WIPO Overview 3.0](#), section 1.4, states: “A trademark owner’s affiliate such as a subsidiary of a parent or of a holding company, or an exclusive trademark licensee, is considered to have rights in a trademark under the UDRP for purposes of standing to file a complaint.” Therefore, the Panel finds that the Complainant has rights in the BESTFORM Trademark.

Next, the Panel considers whether the Disputed Domain Names are “identical or confusingly similar” to the BESTFORM Trademark. As set forth in [WIPO Overview 3.0](#), section 1.7, “in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.” Here, the entirety of the BESTFORM Trademark is reproduced within each of the Disputed Domain Names, and the BESTFORM Trademark is recognizable in each of the Disputed Domain Names.

Further, with respect to the additional elements in the Disputed Domain Names (“lingerie”; “soldes” (French for “sale”) and “fr” (the two-letter country code for France), the Panel considers [WIPO Overview 3.0](#), section 1.8, which states: “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.” Because the BESTFORM Trademark is recognizable in each of the Disputed Domain Names, the addition of “lingerie”, “soldes” or “fr”, which are descriptive or geographical terms, in the Disputed Domain Names does not prevent a finding of confusing similarity.

Accordingly, each of the Disputed Domain Names is confusingly similar to the BESTFORM Trademark for the purposes of the Policy, and 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.

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 Complainant says, and provides screenshots in support thereof, that “Respondent creates a likelihood of confusion with Complainant and its trademarks by using the Disputed Domain Names in connection with commercial websites, which prominently feature the BESTFORM logotype and trademark, with Respondent then attempting to profit from such confusion by offering for sale products branded with Complainant’s stylized ‘B’ trademark, which at best are Complainant’s own products and at worst, counterfeit products.” This, the Complainant says, constitutes bad faith pursuant to paragraph 4(b)(iv) of the Policy, which refers to “intentionally attempt[ing] to attract, for commercial gain,

Internet users to [respondent's] web site 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 [respondent's] web site or location or of a product or service on [respondent's] web site or location." (The fact that the Disputed Domain Names no longer point to an active website following action by the Complainant prior to the filing of the Complaint does not change the Panel's finding of bad faith, because the Policy's reference to how a disputed domain name "is being used" is not strictly limited to the date on which a complaint is filed.)

Further, [WIPO Overview 3.0](#), section 3.1.4 states that "Panels 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." Here, it appears that the BESTFORM Trademark is famous or widely known given that it is protected by multiple registrations in multiple jurisdictions, the oldest of which is more than 53 years old, and that it is used by a company owned by one of the world's largest manufacturers of underwear and other clothing items.

While the foregoing is sufficient to establish bad faith, the Panel feels compelled to comment on the Complainant's arguments about the alleged Respondent's "false Whois information." Granted, the provision of false contact information may be relevant to a finding of bad faith (see, e.g., [WIPO Overview 3.0](#), section 3.2.1: "the use of (false) contact details" can "support an inference of bad faith registration"; section 3.3: "use of false contact details" is "relevant in applying the passive holding doctrine"; and section 3.6: "the provision of false contact information [...] [is] an indication of bad faith"). However, the arguments set forth by the Complainant here – that the phone numbers in the Whois records are for geographic locations other than those associated with the registrant's address – do not necessarily establish that any of the details are false, given that many companies and individuals maintain phone numbers in jurisdictions other than where they are physical located. To be clear, the Panel does not find that the contact details here are accurate, only that the Complainant has failed to establish their inaccuracy. Accordingly, the Panel does not consider this issue in reaching its decision.

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 <bestformlingeriesoldes.com> and <frbestformlingerie.com> be transferred to the Complainant.

/Douglas M. Isenberg/

Douglas M. Isenberg

Sole Panelist

Date: May 7, 2025