

## **ADMINISTRATIVE PANEL DECISION**

Fink's Jeweler's Incorporated v. Seery Michael  
Case No. D2025-0985

### **1. The Parties**

Complainant is Fink's Jeweler's Incorporated, United States of America (the "United States"), represented by Woods Rogers Vandeventer Black PLC, United States.

Respondent is Seery Michael, United States.

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

The disputed domain name <finks.shop> is registered with Spaceship, Inc. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 11, 2025. On March 12, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 13, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complainant on March 13, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on March 17, 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 Respondent of the Complaint, and the proceedings commenced on March 19, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 8, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on April 10, 2025.

The Center appointed Lynda J. Zadra-Symes 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**

Complainant has operated continuously since 1930 under the mark FINK'S, offering a wide range of retail jewelry store services throughout the United States.

Complainant owns a United States Trademark Registration for the FINK'S mark in stylized form, registered on February 8, 2000 and assigned Registration No. 2,315,806, claiming first use at least as early as June 1930. Complainant is also the owner of the domain name <finks.com> from which it offers its jewelry store services.

The disputed domain name was registered on January 10, 2025. The website at the disputed domain name purports to offer jewelry store services and displays identical products and offerings as those offered by Complainant.

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, Complainant contends that the disputed domain name is identical or confusingly similar to Complainant's FINK'S trademark for retail jewelry store services, that Respondent has no rights or legitimate interests in the disputed domain name and that Respondent registered and is using the disputed domain name in bad faith. Complainant alleges that Respondent has set up a website at the disputed domain name that purports to offer retail jewelry store services under Complainant's mark and appears to be mimicking Complainant's legitimate website in a deliberate attempt to confuse consumers seeking Complainant's authentic products and services.

Complainant has not authorized any activities or use of its FINK'S mark by Respondent. Complainant submits that it has received contacts from consumers inquiring into the authenticity of the products offered on Respondent's website.

##### **B. Respondent**

Respondent did not reply to 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 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.

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. The omission of the apostrophe does not avoid a finding of confusing similarity. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The generic Top-Level-Domain (“gTLD”) “.shop” is a standard registration requirement and as such is disregarded under the first element confusing similarity test.

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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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.

Complainant notes that the website associated with the disputed domain name purports to offer retail jewelry store services, in competition with Complainant’s website, and does not support a bona fide offering of goods or services.

The Panel finds that Complainant has provided prima facie evidence of Respondent’s lack of “rights or legitimate interests” in accordance with paragraph 4(a)(ii) of the Policy, which Respondent has not rebutted. Accordingly, 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 Respondent has set up a website at the disputed domain name purporting to offer retail jewelry store services. The Panel notes that the website has several references to Complainant’s FINK’S trademark and purports to offer the same jewelry products. The record therefore indicates that Respondent was fully aware of Complainant’s trademark rights when registering the disputed domain name and is trading on the goodwill of Complainant’s trademark to attract Internet users to Respondent’s website for Respondent’s commercial gain.

The Panel finds the third element of the Policy has been established.

## **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 <finks.shop> be transferred to Complainant.

*/Lynda J. Zadra-Symes/*

**Lynda J. Zadra-Symes**

Sole Panelist

Date: May 8, 2025