

## ADMINISTRATIVE PANEL DECISION

FragranceX.com Inc. v. 万方环球（厦门）物流有限公司 (wan fang huan qiu xia men wu liu you xian gong si)

Case No. D2025-1008

### 1. The Parties

The Complainant is FragranceX.com Inc., United States of America ("United States"), represented by SafeNames Ltd., United Kingdom.

The Respondent is 万方环球（厦门）物流有限公司 (wan fang huan qiu xia men wu liu you xian gong si), China.

### 2. The Domain Name and Registrar

The disputed domain name <fragrancexm.com> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the "Registrar").

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on March 12, 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 14, 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 (not currently displayed) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 14, 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 two amended Complaints in English on March 14 and March 17, 2025, respectively.

On March 14, 2025, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On March 14, 2025, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant's submission.

The Center verified that the Complaint together with the amended Complaints 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 in English and Chinese of the Complaint, and the proceedings commenced on March 17, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 6, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 7, 2025.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on April 10, 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 founded in 2001 and since that time it has operated as an online retailer for fragrances and perfumes, through its primary business website “www.fragrancex.com”, which was first registered and used as early as April 2001. The Complainant offers thousands of perfumes, colognes and lotions for sale, including a number of famous brands. The Complainant’s online business has a global reach; its online store currently receives over 3 million visits per month, of which 47% reach the website via direct type-in. The Complainant has a substantial online presence through social media including a Facebook page that has attracted 1.1 million likes. Multiple third-party publications list the Complainant’s online platform as among the best places to purchase perfume products.

The Complainant owns a portfolio of registered trademarks for FRAGRANCEX.COM and FRAGRANCEX, which includes but is not limited to the following trademarks: United States Trademark Registration no. 3365121 for the mark FRAGRANCEX.COM, registered on January 8, 2008, in Class 35; and United States Trademark Registration no. 5375103 for the mark FRAGRANCEX, registered on January 9, 2018, in Class 35.

The disputed domain name was registered on July 30, 2024, and is therefore of a later date than the abovementioned registered trademarks owned by the Complainant. The disputed domain name is not linked to an active website. However, the Complainant provides evidence that the Respondent has configured MX (“Mail Exchange”) records for the disputed domain name.

#### **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 its trademarks for FRAGRANCEX, since it incorporates these marks in their entirety, adding only the letter “m”. The Complainant argues that its trademarks for FRAGRANCEX are well known and intensely used and refers to a number of prior decisions under the Policy recognizing such well-known status. The Complainant contends that the Respondent is not a licensee of the Complainant, nor is the Respondent otherwise entitled or authorized in any way to use the Complainant’s marks for any purpose. The Complainant further states that it has not given the Respondent permission to use the mark and that the Respondent is not commonly known under the disputed domain name. Furthermore, the Complainant argues that the Respondent is holding the disputed domain name passively in bad faith. Additionally, the Complainant contends that the Respondent has configured MX records for the disputed domain name. The Complainant states that the presence of MX records suggests that the Respondent has the capability to engage in phishing activity

through email distribution, particularly given the evidently implied affiliation with the disputed domain name due to the Complainant's FRAGRANCEX trademark. The Complainant essentially argues that in these circumstances, the Respondent has no rights or legitimate interests in the disputed domain name and the registration and use of the disputed domain name are made in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 Preliminary Issue: Language of the Proceeding**

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint and amended Complaints were filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the disputed domain name is composed of Latin characters, rather than Chinese script; that according to evidence provided by the Complainant, the Respondent holds other domain names which comprise generic English words (e.g. <bicycle.com.cn> ("Bicycle"), <benefitpark.cn> ("Benefit", "Park"), and <landmark-hotel.com.cn> ("Landmark", "Hotel"); that the Complainant's representatives are based in the United Kingdom and requiring a translation would result in the incurrence of additional expense and unnecessary delay; and that the Respondent failed to reply to the Complainant's cease and desist notifications advising that it did not understand English. The Complainant also adds that the commission of a translator would add considerable costs to the Complainant, who already bears the cost of filing, and will cause delay to the commencement of the proceeding.

The Respondent did not make any specific submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

### **6.2 Findings on the Merits.**

#### **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 entirety of the mark 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 term here, the letter “m” 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 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 notes that the disputed domain name directs merely to an inactive or blank webpage. Under the circumstances of this case, the Panel finds that merely holding a domain name passively, without making any use of it, does not confer any rights or legitimate interests in the disputed domain name on the Respondent (see in this regard earlier UDRP decisions such as *Bollore SE v. 赵竹飞 (Zhao Zhu Fei)*, WIPO Case No. [D2020-0691](#); and *Vente-Privee.Com and Vente-Privee.com IP S.à.r.l. v. 崔郡 (jun cui)*, WIPO Case No. [D2021-1685](#)).

Finally, the Panel also notes that the disputed domain name incorporates the Complainant’s well-known mark entirely and merely combining it with the letter “m”, and the disputed domain name is also almost identical to the Complainant’s domain name <fragrancex.com> and trademark FRAGRANCEX.COM. The Panel finds that Internet users may not notice the additional letter to the Complainant’s trademarks and domain name and believe that the disputed domain name is somehow connected to the Complainant, contrary to the fact.

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 Respondent has registered a domain name which is confusingly similar to the Complainant’s well-known and intensely used FRAGRANCEX.COM and FRAGRANCEX trademarks and combined the FRAGRANCEX mark with the letter “m” in the disputed domain name, which may suggest an affiliation or other connection to the Complainant to Internet users who would not notice the subtle difference. The Panel particularly accepts that the Complainant’s FRAGRANCEX.COM and

FRAGRANCEX marks are well known and refers to multiple prior UDRP decisions in which such marks were recognized as well-known marks, including *FragranceX.com Inc. v. Xiao Fang*, WIPO Case No. [D2024-0136](#). In this context, the Panel also refers to the [WIPO Overview 3.0](#), section 3.1.4, which states “[p]anels 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”. Furthermore, the Panel also notes that the Complainant’s trademarks were registered years before the registration date of the disputed domain name. The Panel deduces from these elements that the Respondent knew, or at least should have known, of the existence of the Complainant’s trademarks at the time of registering the disputed domain name. In the Panel’s view, these elements indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain name in bad faith.

As to use of the disputed domain name in bad faith, panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the strong reputation of the Complainant’s trademark, the composition of the disputed domain name and the lack of a response from the Respondent and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Additionally, the Panel has also reviewed the Complainant’s evidence containing the MX records for the disputed domain name, which indicate that the Respondent has connected the disputed domain name to email servers. The Panel finds that this creates a grave risk that the Respondent may be using the disputed domain name, which is confusingly similar to the Complainant’s well-known marks, for misrepresentations and/or phishing, scamming or spamming activities (see in this sense also previous UDRP decisions such as *Carrefour v. WhoisGuard, Inc.*, *WhoisGuard Protected / Robert Jurek, Katrin Kafut, Purchasing clerk, Starship Tapes & Records*, WIPO Case No. [D2017-2533](#)). The preceding elements lead the Panel to conclude that the Respondent is using the disputed domain name in bad faith.

The Panel therefore finds that it has been demonstrated that the Respondent has registered and is using the disputed domain name in bad faith.

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 <fragrancexm.com> be transferred to the Complainant.

/Deanna Wong Wai Man/

**Deanna Wong Wai Man**

Sole Panelist

Date: April 21, 2025