

ADMINISTRATIVE PANEL DECISION

Fat Face Holdings Limited v. Birgit Schweizer
Case No. D2025-1124

1. The Parties

The Complainant is Fat Face Holdings Limited, United Kingdom ("UK"), represented by SafeNames Ltd., UK.

The Respondent is Birgit Schweizer, Germany.

2. The Domain Name and Registrar

The disputed domain name <fatfaceaustralia.com> is registered with Web Commerce Communications Limited dba WebNic.cc (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 19, 2025. On March 19, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 20, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 21, 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 March 24, 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 27, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 16, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 18, 2025.

The Center appointed Masato Dogauchi as the sole panelist in this matter on April 28, 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, founded in 1988, is a British clothing, accessories and lifestyle company having many stores in, among others, UK, Ireland, United States of America, and Canada with a revenue of GBP 270.9 million in 2023.

The Complainant has registered trademarks such as:

- United States of America Trademark Registration No. 4934466 for FATFACE, registered on April 12, 2016;
- UK Trademark Registration No. UK00912646659 for FATFACE, registered on October 14, 2014;
- Australia Trademark Registration No. 1692259 for FATFACE, registered on February 19, 2015.

In addition, the Complainant's domain name, <fatface.com>, was registered in April 1997 and has been used consistently therefrom.

The disputed domain name was registered on December 3, 2024. The Complainant introduced evidence that, within Australia, the disputed domain name resolved to a website using the Complainant's logo and trademark to offer goods under the Complainant's name at discounted prices, and included registration and login pages. It does not resolve to an active webpage outside Australia.

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.

B. Respondent

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

6. Discussion and Findings

In accordance with the Rules, paragraph 15(a), a panel shall decide a case on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable. Since the Respondent has not made any substantive arguments in this case, the following decision is rendered on the basis of the Complainant's contentions and other evidence submitted by the Complainant.

In accordance with the Policy, paragraph 4(a), in order to qualify for a remedy, the Complainant must prove each of the following:

- (i) The disputed domain name is identical or confusingly similar to a trademark or service mark 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 the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name includes the Complainant's FATFACE trademark as a whole. Such fact supports a finding that the disputed domain name is confusingly similar to the Complainant's FATFACE trademark. The addition of the term "australia" does not prevent the finding of confusing similarity. [WIPO Overview 3.0](#), sections 1.7 and 1.8.

Accordingly, 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.

The Panel finds that the Complainant made a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name and the Respondent did not come forward with relevant evidence rebutting the prima facie case.

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, in consideration of the fact that the Complainant has been doing business in clothing, accessories and lifestyle sector since 1988, it is highly unlikely that the Respondent could have been unaware of the Complainant's FATFACE trademark at the time of registration of the disputed domain name on December 3, 2024. Therefore, it is found that the Respondent registered the disputed domain name in bad faith.

On the other hand, with regard to the requirement that the disputed domain name is being used in bad faith, the disputed domain name, within Australia, resolved to a website using the Complainant's logo and trademark to offer goods under the Complainant's name at discounted prices, and included registration and login pages. Therefore, this Panel finds that the Respondent has tried to capitalize on the reputation and goodwill of the Complainant by misleading Internet users, for commercial gain, by creating a likelihood of

confusion as to the source, sponsorship, affiliation, or endorsement of the website, which constitutes bad faith under paragraph 4(b)(iv) of the Policy. The fact that the disputed domain name does not resolve to an active webpage outside Australia does not prevent a finding of bad faith.

Accordingly, 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 <fatfaceaustralia.com> be transferred to the Complainant.

/Masato Dogauchi/

Masato Dogauchi

Sole Panelist

Date: May 7, 2025