

ADMINISTRATIVE PANEL DECISION

Francisco Jose Mallmann Sanchez v. Paaren Mihtla, Pausitivemedia
Case No. D2025-1355

1. The Parties

The Complainant is Francisco Jose Mallmann Sanchez, Uruguay, represented by Francis Mallmann Group LLC, United States of America.

The Respondent is Paaren Mihtla, Pausitivemedia, Canada.

2. The Domain Name and Registrar

The disputed domain name <francismallmann.com> is registered with Rebel Ltd (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 3, 2025. On April 3, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 3, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 4, 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 April 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 Respondent of the Complaint, and the proceedings commenced on April 7, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 27, 2025. The Respondent did not submit any formal response. The Respondent sent an email communication to the Center on April 21, 2025, to which the Complainant responded on the same day.

The Center appointed Andrew D. S. Lothian as the sole panelist in this matter on May 7, 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 is a globally recognized chef who has built a personal brand over many years via books, television, restaurants, and culinary events.

The Complainant is the owner of multiple registered trademarks in the mark FRANCIS MALLMANN. For example, the Complainant is the owner of European Union Registered Trademark Number 016390775 in respect of the word mark FRANCIS MALLMANN, registered on August 16, 2017, in Classes 21, 29, 30, 33, and 43. Based upon a list provided by the Complainant, this mark appears to be the Complainant's earliest registered trademark.

The Complainant also claims unregistered trademark rights in its personal name, which it argues were in existence long before the disputed domain name was registered. The Complainant has engaged in decades of television work under its personal name in South America from at least the 1990s, including a program entitled "Los Fuegos con Francis Mallmann", the operation of restaurants under such name, including "Francis Mallmann" – Aix-en-Provence, France, the Complainant's authorship of multiple books under its personal name since the 1980s, including "La Cocina del Instante" (1984), and "Seven Fires: Grilling the Argentine Way" (2009), and extensive press coverage and media presence. The Complainant also asserts (without providing specific evidence) that the Complainant's name has been licensed over the years for use in a range of commercial products including wines, spirits, food items, kitchen equipment, clothing, and homeware.

The disputed domain name was created on March 16, 2010. It does not resolve to an active website. Little is known of the Respondent, which has not filed a formal Response. However, the essence of the Respondent's position is that it registered the disputed domain name on behalf of a person named Deanna Justesen, who was requested to make the registration by the Complainant.

The Complainant produces a copy of correspondence between the Complainant's son and Ms. Justesen between May 30, 2024, and November 14, 2024. As this is instructive, the Panel records it in some detail. The correspondence opens with an email by the Complainant's son dated May 30, 2024, in which it is indicated that the Complainant's team are working on a website for the Complainant "and as a first step are looking into his domain name". The email goes on, "He mentioned at some point you had registered it, and suggested I touch base to see if by any chance you still had it. I know it has been a long time so you might not anymore, but thought I'd check just in case". Ms. Justesen replies on May 31, 2024, confirming that the disputed domain name is still registered. The Complainant's son replies on the same day asking if Ms. Justesen is using the disputed domain name for something or would be willing to transfer it so that the Complainant could use it. Also on the same day, Ms. Justesen replies with her location adding that she can make herself available if the Complainant could meet up "to work out the details". On June 14, 2024, the Complainant's son replies that the Complainant does not have relevant travel plans for the remainder of the year and proposes a call to discuss the matter.

There does not appear to have been a response to the email of June 14, 2024, and on November 14, 2024, the Complainant's son writes again to Ms. Justesen, informing her that "our lawyers" had indicated that a case might be made out under the Policy but proposing an amicable solution and inviting suggestions as to how a transfer of the disputed domain name might be facilitated. On the same day, Ms. Justesen replies indicating that she is presently traveling by ship with an arrival date of December 1, at which point, she would be "[...] happy to meet up and work with you to get this transferred". On the same day, the Complainant's son replies, stating that he is not based near Ms. Justesen's arrival location, and proposing a call to discuss. Ms. Justesen replies on the same day stating that there is a matter to be discussed with the Complainant,

and that a face to face meeting is required “to conclude a matter dating back many years as well as the secure transfer of a domain name that I was asked to protect”. Ms. Justesen concludes with a request that the Complainant be told of the continued desire to connect. The Complainant’s son replies, on the same day, again requesting a telephone conversation for logistical reasons and for reasons of urgency, also detailing the technical process to transfer the disputed domain name and again mentioning that the alternative is a Complaint under the Policy. This is the last email produced by the Complainant, although it also notes that the Respondent ultimately declined to proceed with a transfer, and that the Complainant’s final message of January 18, 2025, received no response.

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 identical to the Complainant’s full name and registered trademark, adding that the “.com” suffix does not distinguish the disputed domain name from the mark.

The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name because there is no evidence of use in connection with a bona fide offering of goods or services, adding that the disputed domain name has been inactive for over a decade. The Complainant notes that the Respondent is not commonly known by the disputed domain name, which in contrast is the Complainant’s name, adding that there is no evidence of any connection between the Respondent and the Complainant’s brand, whether personal, commercial, or otherwise, and that there is no legitimate noncommercial or fair use of the disputed domain name, or any evidence that the Respondent possesses corresponding trademark rights.

The Complainant submits that the disputed domain name was registered and is being used in bad faith because it has been passively held for over a decade with no active website, adding that at the point of registration of the disputed domain name, the Complainant was already an internationally recognized chef with an established public profile built through decades of commercial activity, adding that the registration of the disputed domain name reflects an intention to target the Complainant’s well-known personal brand and capitalize on its reputation.

The Complainant notes that there has been no credible explanation offered by the Respondent regarding the registration or intended use of the disputed domain name, adding that although Ms. Justesen responded to inquiries in 2024, she did not provide a business justification or evidence of rights or legitimate interests in the disputed domain name. The Complainant asserts that the disputed domain name blocks the Complainant from using its name as a domain name, asserting that this constitutes bad faith in the circumstances of the case.

B. Respondent

The Respondent did not file a formal Response. However, the Respondent emailed the Center on April 21, 2025, addressing the Complainant’s son, noting that the Respondent registered the disputed domain name “for Deanna and if I’m not mistaken at the request of your father”. The Respondent went on to note that it would be willing to transfer ownership of the disputed domain name for a service fee covering the costs incurred in maintaining and registering the disputed domain name over the last 15 years, being the sum of CAD 1,500.

C. Complainant's reply to Respondent's email

For completeness, the Panel will record the Complainant's reply to the Respondent's email, which it does not propose to treat as a supplemental filing. The reply states that while a transfer of the disputed domain name might have been the preferred approach at an earlier stage, the Complainant prefers to allow its Complaint under the Policy to proceed.

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 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.

Personal names that have been registered as trademarks would provide standing for a complainant to file a UDRP case. [WIPO Overview 3.0](#), section 1.5.1.

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.

The applicable Top-Level Domain in a domain name is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

The registration date of the Complainant's FRANCIS MALLMANN registered trademark post-dates the registration date of the disputed domain name. This is not considered relevant to the first element test but may bear upon the Panel's further substantive determination under the second and third elements. [WIPO Overview 3.0](#), section 1.1.2. For this reason, it is also convenient at this point to consider the Complainant's claim to unregistered trademark rights in the FRANCIS MALLMANN mark.

In situations where a personal name is being used as a trademark-like identifier in trade or commerce, the complainant may be able to establish unregistered rights in that name for purposes of standing to file a UDRP case where the name in question is used in commerce as a distinctive identifier of the complainant's goods or services. [WIPO Overview 3.0](#), section 1.5.2.

Here, while the Panel would have preferred to see more detailed evidence supporting the Complainant's various claims of use of its name in commerce (such as, examples of front covers of the books authored, direct evidence of the claimed participation in television work under its personal name, and examples of the use of the name in association with the various restaurants as opposed to a listing of restaurant names that do not contain such personal name) the Panel is satisfied based upon the career timeline and Google search provided by the Complainant that it has used its personal name in commerce as a distinctive identifier of the Complainant's goods and services. The Complainant's use of its name in this manner predates the registration date of the disputed domain name. The Panel also notes that the Complainant's assertion of such use is not in contention by the Respondent in the present case.

The Panel finds the Complainant has established unregistered trademark or service mark rights for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3.

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

B. Rights or Legitimate Interests

The requirements of paragraph 4(a) of the Policy are conjunctive. A consequence of this is that failure on the part of a complainant to demonstrate one element of the Policy will result in failure of the complaint in its entirety. Accordingly, in light of the Panel's findings in connection with the third element assessment under the Policy, no good purpose would be served by addressing the issue of the Respondent's rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

In terms of the third element of the Policy, the Complainant must prove, on the balance of probabilities, (i) that the disputed domain name has been registered in bad faith and (ii) that the disputed domain name is being used in bad faith. These two elements are conjunctive and must both be proved for the Complainant to carry its burden in terms of paragraph 4(a)(iii) of the Policy. If the Panel decides that only one, or neither, of these components are proved, the Complaint will fail.

In the present case, the evidence strongly suggests that the disputed domain name was registered at the request of the Complainant. The email from the Complainant's son dated May 30, 2024, to Ms. Justesen notes that the Complainant had mentioned to the Complainant's son "at some point [Ms. Justesen] had registered it" and further invited him to "touch base" with Ms. Justesen. That communication is followed by an email dated November 14, 2024, from Ms. Justesen, in which she refers to the disputed domain name as being "a domain name that I was asked to protect". Notably, the Complainant does not attempt to challenge directly or contradict that statement in the remainder of the correspondence. Finally, the Respondent's email explains that the Respondent registered the disputed domain name "for [Ms. Justesen] and if I'm not mistaken at the request of your father", further corroborating what appears to be the mutual understanding of all parties involved in the matter, including the Parties to this dispute.

The evidence discussed above suggests that the disputed domain name was registered as a result of an arrangement between the Complainant and Ms. Justesen (albeit that neither of the Parties explains the precise nature of such arrangement, whether it was formal or informal, or whether it was a business relationship or had some other background) whereby the Complainant gave its permission for Ms. Justesen to organize that the registration of the disputed domain name be effected, which she appears to have done via the Respondent and/or the Respondent's organization, Pausitivemedia. On the basis that the disputed domain name was registered as a result of such an arrangement, and that the Complainant gave its permission for this to occur, the Panel cannot see how the disputed domain name could have been registered in bad faith. This is crucial to the outcome of this proceeding because, as indicated above, the provisions of paragraph 4(a)(iii) of the Policy are conjunctive. Even if the Complainant would be able to establish that the disputed domain name is being used in bad faith (on which matter the Panel expresses no opinion as it is unnecessary for it to do so in the circumstances of this case), if the Complainant cannot also show that the disputed domain name was registered in bad faith then it has not established the third element of the Policy, and the Complaint must fail.

The position might have been different if the Complainant were able to show that its arrangements with Ms. Justesen had been reduced to writing, and that the terms stated expressly that the disputed domain name was to be registered in the Complainant's personal name or the name of a Complainant-controlled business entity (or that this might be reasonably inferred from the terms). In the absence of such, and on the basis of the evidence before it, the Panel decides on the balance of probabilities that the disputed domain name was registered on the strength of unqualified permission given by the Complainant to Ms. Justesen at or around the time of such registration, which permission was further communicated to the Respondent, and that the disputed domain name was therefore registered by the Respondent in good faith, and without intent to target unfairly the Complainant's rights in its (then) unregistered trademark.

Before concluding the decision, the Panel notes the terms of the Respondent's offer to transfer the disputed domain name to the Complainant in return for a payment reflecting the cost of registration and renewal over the last 15 years and suggests that this might be explored by the Parties as an amicable resolution to their dispute.

The Panel finds the third element of the Policy has not been established.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Andrew D. S. Lothian/

Andrew D. S. Lothian

Sole Panelist

Date: May 21, 2025