

ADMINISTRATIVE PANEL DECISION

Fat Face Holdings Limited v. Swen Sanger, Kristian Biermann
Case No. D2025-1438

1. The Parties

The Complainant is Fat Face Holdings Limited, United Kingdom, represented by SafeNames Ltd., United Kingdom.

The Respondent is Swen Sanger, Kristian Biermann, Germany.

2. The Domain Names and Registrar

The disputed domain names <fatfacecanada.com> and <fat-faceuk.com> are registered with NameSilo, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 8, 2025. On April 8, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On April 9, 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 (Domain Administrator / See PrivacyGuardian.org) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 9, 2025 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar(s), requesting the Complainant to either file separate complaint(s) 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 all domain names are under common control. The Complainant filed an amended Complaint on April 14, 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 29, 2025. In accordance with the Rules, paragraph 5, the due date for Response was May 19, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 20, 2025.

The Center appointed Alissia Shchichka as the sole panelist in this matter on May 22, 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 British company specializing in clothing, accessories, and lifestyle products. Founded in 1988, the Complainant has developed a strong retail presence, operating over 200 stores in the United Kingdom by 2012, and expanding into North America, including the opening of nine stores in Canada as of 2023. In 2023, the Complainant reported a revenue of GBP 270.9 million, up from GBP 234.9 million in 2022.

The Complainant has evidenced to be the registered owner of numerous trademarks worldwide relating to its trademarks FAT FACE and FATFACE including, but not limited, to the following:

- European Union Trademark Registration No. 001764760, for the word mark FAT FACE, registered on October 16, 2001, in classes 9, 18 and 25;
- United Kingdom Trademark Registration No. UK00912646659, for the word mark FATFACE, registered on October 14, 2014, in classes 3, 9, 14, 16, 18, 25 and 35; and
- Canadian Trademark Registration No. TMA941751, for the word mark FATFACE, registered on June 27, 2016, in classes 3, 9, 14, 16, 18, 21 and 25.

Additionally, the Complainant is the owner of the domain name <fatface.com>, registered since April 22, 1997, which serves as its official e-commerce website. In 2023, the website recorded 42.8 million visits, with online sales accounting for 39.5% of the Complainant's total revenue.

The aforementioned trademarks and domain name were registered prior to the disputed domain names, which were registered on December 3, 2024. One of the disputed domain names, <fatfacecanada.com>, previously resolved to a website that reproduced the Complainant's FAT FACE and FATFACE trademarks, as well as copyrighted images belonging to the Complainant. The website purported to sell the Complainant's products at discounted prices. Following a takedown request submitted by the Complainant, the website was deactivated by the Registrar and is currently inactive. The second disputed domain name, <fat-faceuk.com>, is likewise inactive.

According to the disclosed WhoIs information, the Respondents of the disputed domain names are located in Germany.

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.

The Complainant asserts that the disputed domain names are confusingly similar to its FAT FACE and FATFACE trademarks. Both disputed domain names incorporate the Complainant's trademarks in their entirety, with the mere addition of geographic terms, namely "canada" and the abbreviation "uk" (referring to the United Kingdom). These additions do not prevent a finding of confusing similarity, particularly given the Complainant's active commercial presence in both Canada and the United Kingdom. The Complainant also notes that the generic Top-Level Domain (gTLD) ".com", should be disregarded under the first element, as it is a standard registration requirement and does not affect the analysis of confusing similarity.

Furthermore, the Complainant asserts that the Respondent lacks rights or legitimate interests in the disputed domain names for the following reasons:

First, the Respondent is not affiliated with, licensed by, or otherwise authorized the Complainant to use the FATFACE or FAT FACE trademarks in connection with the disputed domain names.

Second, the Respondent has not used nor demonstrated any preparations to use the disputed domain names in connection with a bona fide offering of goods or services. On the contrary, one of the disputed domain names previously resolved to a website that reproduced the Complainant's trademarks, displayed copyrighted images, and purported to sell the Complainant's products at discounted prices, thereby impersonating the Complainant. Moreover, the website also solicited personal information from users under the false pretense that it was the Complainant's official website or was otherwise affiliated with the Complainant.

Finally, the composition of the disputed domain names, carries a risk of implied affiliation with the Complainant and cannot constitute a bona fide use, nor a legitimate noncommercial or fair use of the disputed domain names.

The Complainant further contends that the Respondent has registered and used the disputed domain names in bad faith.

First, the Complainant's FAT FACE and FATFACE trademarks significantly predate the registration of the disputed domain names and are widely recognized in the retail clothing sector. The use of the Complainant's trademarks, in combination with geographic terms corresponding to the Complainant's core markets, demonstrates that the Respondent was aware of the Complainant's rights at the time of registration and intentionally targeted them.

Second, the impersonation website invited users to submit personal information under the false impression that they were engaging with the Complainant. Such use constitutes phishing, an inherently illegitimate and fraudulent activity, and is clear evidence of bad faith.

Finally, the currently inactive status of both disputed domain names does not prevent a finding of bad faith under the doctrine of passive holding.

The Complainant requests that the disputed domain names be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

I. Preliminary Issue: Consolidation of Multiple Underlying Respondents

The amended Complaint was filed against the multiple respondents. The Complainant contends that the domain names registrants are the same entity, or under common control. Accordingly, the Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.11.2.

In the present case, the Panel finds sufficient evidence to establish that the disputed domain names are under common control. The relevant circumstances include the following:

First, both disputed domain names were registered on the same date and with the same registrar.

Second, the disputed domain names share a similar naming pattern, each incorporating the Complainant's FAT FACE and FATFACE trademarks in combination with a geographic descriptor: one with "Canada", and the other with "UK", preceded by a hyphen.

Third, the contact details associated with the disputed domain names are highly similar and raise suspicion. Both sets of registrant information include the German addresses that appear to be false, incomplete or unverifiable, as well as the telephone numbers that omit international dialing codes.

Finally, the email addresses associated with the registrants of both disputed domain names use the Russian domain "[...].bizml.ru", and bear no resemblance to the listed registrant names. These details suggest the use of masked or false identities.

Taken together, these elements support the conclusion that the disputed domain names are owned and controlled by the same party or the same operating group using aliases.

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.

II. Substantive Issues

Under paragraph 4(a) of the Policy, the Complainant carries the burden of proving:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

The Respondent's default in the case at hand does not automatically result in a decision in favor of the Complainant, however, paragraph 5(f) of the Rules provides that if the Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint.

Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from the Respondent's failure to submit a response as it considers appropriate.

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 names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here, “canada” and “uk”, 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 names 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 names.

Indeed, the Complainant has confirmed that the Respondent is neither affiliated with, nor otherwise authorized or licensed by the Complainant to use the FAT FACE and FATFACE trademarks, nor to seek registration of any domain name incorporating these trademarks. There is no evidence that the Respondent is commonly known by the disputed domain names. [WIPO Overview 3.0](#), section 2.3.

One of the disputed domain names resolved to a website impersonating the Complainant by reproducing its trademarks and copyrighted content and purporting to sell the Complainant’s products at discounted prices. Previous panels have consistently held that such use cannot constitute a bona fide offering, as it unfairly capitalizes on the reputation and goodwill of the Complainant’s trademarks. Moreover, the website solicited personal information from Internet users under the false pretense of affiliation with the Complainant. Panels have held that using a domain name for illegal activities, such as phishing and impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel also notes that the composition of the disputed domain names, combining the Complainant’s trademarks with the geographical terms referring to its markets, creates a risk of implied affiliation or suggests sponsorship and/or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Accordingly, the Complainant has provided evidence supporting its prima facie claim that the Respondent lacks any 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.

Therefore, the Panel concludes that the Respondent does not have any rights or legitimate interests in the disputed domain names and the Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

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 observes that the Complainant's trademarks significantly predate the Respondent's registration of the disputed domain names. Additionally, the incorporation of the Complainant's trademarks in the disputed domain names, along with the prior use of the Complainant's trademarks and logo on the website associated with one of the disputed domain names, demonstrates that the Respondent was clearly aware of the Complainant's business and trademarks at the time of registering the disputed domain names. [WIPO Overview 3.0](#), section 3.2.2.

The Panel further notes that this website impersonated the Complainant, displaying its trademarks and copyrighted content while purporting to offer its products at discounted prices. Panels have consistently held that the use of a domain name for illegitimate activity, such as impersonation or passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

In the Panel's view, the Respondent has intentionally attempted to attract Internet users to its website, for commercial gain, by creating a likelihood of confusion with the Complainant's trademarks regarding the source, sponsorship, affiliation, or endorsement of its website or the products offered on it. Under paragraph 4(b)(iv) of the Policy, this constitutes evidence of the registration and use of a domain name in bad faith. [WIPO Overview 3.0](#), section 3.1.4.

Finally, as for the second disputed domain name, although it is inactive, passive holding does not preclude a finding of bad faith. In light of the Complainant's well-known trademark, the absence of any legitimate use, the use of false contact details, and the implausibility of any legitimate use of the disputed domain name, the Panel concludes that the circumstances satisfy the criteria for bad faith passive holding as established in *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

Based on the available record, 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 <fatfacecanada.com> and <fat-faceuk.com> be transferred to the Complainant.

/Alissia Shchichka/

Alissia Shchichka

Sole Panelist

Date: June 5, 2025