

ADMINISTRATIVE PANEL DECISION

Internet Services Australia 1 Pty Ltd v. Vercel Whois, Vercel Inc.
Case No. D2025-2701

1. The Parties

The Complainant is Internet Services Australia 1 Pty Ltd, Australia, represented by Bird & Bird, Australia.

The Respondent is Vercel Whois, Vercel Inc., United States of America.

2. The Domain Name and Registrar

The disputed domain name <fashion-theiconic.com> (the “Domain Name”) is registered with Tucows Domains Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 20, 2025. On July 9, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name, which differed from the named Respondent (REDACTED REGISTRANT) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 10, 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 amendment to the Complaint on the same day.

The Center verified that the Complaint together with the amendment to the 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 July 11, 2025. In accordance with the Rules, paragraph 5, the due date for Response was July 31, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 4, 2025.

The Center appointed Ian Lowe as the sole panelist in this matter on August 5, 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 established in 2011, and since that date has provided online retail, shopping and related services in Australia and New Zealand (as well as in ASEAN region and Latin America). In particular, the Complainant has promoted and sold a range of clothing, shoes and accessories for women, men and children as well as beauty products, homewares and sports equipment. It has provided retail services in relation to these products through its websites at “www.theiconic.com.au” and “www.theiconic.co.nz”.

The Complainant is the proprietor of several registered trademarks for THE ICONIC, including Australia trademark number 1495348 registered on July 2, 2014, and New Zealand trademark number 1004806 registered on March 10, 2015.

The Domain Name was registered on February 22, 2025. It does not currently resolve to an active website, but the Complainant has adduced evidence that, at the time of preparation of the Complaint, it resolved to a website the welcome page of which boldly stated THE ICONIC trademark and “Welcome to THE ICONIC” statement over photographs of models. The Complainant alleges that “the Respondent is using the [Domain Name] to promote products which have been slavishly and without the Complainant’s approval or authorisation, copied from the [the Complainant’s] website”.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its THE ICONIC trademark (the “Mark”), that the Respondent has no rights or legitimate interests in respect of the Domain Name and that the Respondent registered and is using the Domain Name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy. In particular, the Complainant asserts that the Complainant has not authorised the Respondent (or any third party) to promote or sell the THE ICONIC-branded products that are promoted on the Respondent’s website, and the Respondent therefore has no ability to supply the goods promoted on the website to consumers.

B. Respondent

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

6. Discussion and Findings

For this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the 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 or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

Ignoring the generic Top-Level Domain ".com", the Domain Name comprises the entirety of the Mark with the addition of the word "fashion" and a hyphen. The Panel finds that the addition of the word "fashion" does not prevent a finding of confusing similarity between the Domain Name and the Mark. [WIPO Overview 3.0](#), section 1.8. Accordingly, the Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights, and 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. Accordingly, 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 Complainant has made out a strong prima facie case that the Respondent could have no rights or legitimate interests in respect of the Domain Name. The Respondent has used the Domain Name not in connection with a bona fide offering of goods or services, but for a website imitating that of the Complainant, featuring the Mark. There is no suggestion that the Respondent has ever been known by the Domain Name. The Respondent has chosen not to respond to the Complaint or to take any steps to counter the prima facie case established by the Complainant. In the circumstances, the Panel finds that the Respondent does not have any rights or legitimate interests in respect of the Domain Name.

In addition, the nature of the Domain Name together with the Respondent's website creates a strong risk of Internet user confusion.

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 Domain Name comprises the entirety of the Mark with the addition of the word "fashion". The Respondent has used the Domain Name for a website prominently featuring the Mark with photographs of models wearing fashion products. Accordingly, the Panel is in no doubt that the Respondent had the Complainant and its rights in the Mark in mind when it registered the Domain Name.

Although the Complainant alleges that the Respondent has purported to offer the Complainant's branded goods for sale with images slavishly copied from the Complainant's website, in circumstances where it has no legitimate source for such goods, it has produced no evidence of this whether in the form of screenshots of the Respondent's website or otherwise. The Complaint states that the Annexes include comparisons of the Complainant's website and that to which the Domain Name previously resolved, demonstrating such copying, but no such evidence was produced and no evidence that the Respondent was offering THE ICONIC branded goods for sale.

Nevertheless, the Panel is satisfied on the balance of probabilities, that the Respondent has registered and used the Domain Name to imitate the Complainant and to deceive Internet users into believing that the Domain Name is operated or authorized by the Complainant, attracting Internet users by creating a likelihood of confusion with the Mark. In the Panel's view, the use of a domain name for such activity, presumably with a view to commercial gain, amounts to paradigm bad faith registration and use for the purposes of the Policy.

Accordingly, the Panel finds that the Domain Name has been registered and is being used in bad faith.

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 Domain Name <fashion-theiconic.com> be transferred to the Complainant.

/Ian Lowe/

Ian Lowe

Sole Panelist

Date: August 19, 2025