

ADMINISTRATIVE PANEL DECISION

Fortnum & Mason PLC v. HUYNH THI THUY NGAN
Case No. D2025-3055

1. The Parties

The Complainant is Fortnum & Mason PLC, United Kingdom, represented by Boulton Wade Tennant LLP, United Kingdom.

The Respondent is HUYNH THI THUY NGAN, Viet Nam.

2. The Domain Name and Registrar

The disputed domain name <fortnumandmason-usa.com> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 31, 2025. On July 31, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 4, 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 (Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 5, 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 August 8, 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 August 11, 2025. In accordance with the Rules, paragraph 5, the due date for Response was August 31, 2025. The Respondent sent an email communication to the Center on August 15, 2025. On September 1, 2025, the Center informed the Parties about the commencement of panel appointment process.

The Center appointed Olga Zalomiy as the sole panelist in this matter on September 4, 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 luxury department store. The Complainant owns multiple registrations for the FORTNUM & MASON trademark, such as:

- the European Union registration No. 9036278 for the FORTNUM & MASON trademark, registered on October 28, 2010.
- the United Kingdom registration No. UK00909036278 for the FORTNUM & MASON trademark, registered on October 28, 2010.
- the United States of America registration No. 939980 for the FORTNUM & MASON trademark, registered on August 1, 1972.

Prior UDRP panels have found the Complainant's mark to be well-known.¹ The Complainant also owns the <fortnumandmason.com> domain name that incorporates its trademark.

The Respondent registered the disputed domain name on October 30, 2024. The disputed domain name directs users to a Vietnamese gambling website.

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 well-known FORTNUM & MASON trademark because the disputed domain name reproduces the Complainant's mark in its entirety. In the Complainant's view, the "&" symbol of the Complainant's trademark would be understood as meaning "and", which would render the disputed domain name identical to the mark. The Complainant argues that the geographical element "usa" indicates that the website is the United States targeted version of the Complainant's website.

The Complainant submits that the Respondent has no rights or legitimate interests in the disputed domain name because (i) the Respondent is not commonly known by the disputed domain name since he is hidden behind the privacy shield; (ii) the Respondent has not been authorized by the Complainant to use its FORTNUM & MASON trademark in the disputed domain name; (iii) the Respondent's use of the disputed domain name cannot be considered fair because it falsely suggests an affiliation with the Complainant.

The Complainant asserts that the Respondent registered the disputed domain name in bad faith, because of a variety of factors, such as the Respondent's use of false contact information at the time of the disputed domain name registration. The Complainant argues that the Respondent registered the disputed domain name with the Complainant's well-known trademark in mind. The Complainant argues that the

Respondent is using the disputed domain name in bad faith because it resolves to a Vietnamese gambling website.

¹*Fortnum & Mason PLC v. Privacy Protection / Domain /or Administrator*, WIPO Case No. [D2022-2763](#); *Fortnum & Mason PLC v. Virgil Sofian*, WIPO Case No. [D2020-2880](#); *Fortnum & Mason PLC v. Domains by Proxy LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2022-0961](#); *Fortnum & Mason PLC v. Ahsan Iqbal*, WIPO Case No. [D2022-2876](#).

B. Respondent

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

The Respondent sent an informal communication to the Center on August 15, 2025, stating: "I am contacting you regarding a domain dispute case and would like to request clarification on which specific domain(s) are involved in the dispute associated with Case D2025-3055.

Please provide details on the domain name(s) implicated in this case and any relevant status updates or next steps? Any additional guidance on documentation or procedures required from my side would also be greatly appreciated".

6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, to succeed in this proceeding, the Complainant must prove each of the following elements with respect to the disputed domain name:

- (i) the disputed 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 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 or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable 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. Here, the disputed domain name includes the Complainant's FORTNUM & MASON trademark with the symbol "&" between the words replaced with a conjunction "and". The inclusion of the generic Top-Level Domain ".com" is typically disregarded in the context of the confusing similarity assessment, being a technical requirement of registration. [WIPO Overview 3.0](#), section 1.11.1.

Although the addition of other terms here, the geographical term "usa" and the dash symbol, 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 evidence on record shows that the Respondent is not commonly known by the disputed domain name. The Respondent is not making legitimate noncommercial or fair use of the disputed domain name or uses it for bona fide offering of goods or services, because the disputed domain name that is virtually identical to the Complainant's domain name associated with its official website directs to a Vietnamese gambling website. Finally, the Respondent has not been authorized by the Complainant to use the Complainant's well-known trademark in a domain name.

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 registered the disputed domain name incorporating the Complainant's well-known FORTNUM & MASON trademark and the geographical term "usa" many years after the Complainant's first trademark registration. Apart from the term "USA" and the dash symbol, the disputed domain name is identical to the Complainant's domain name associated with its official website. Therefore, it is likely that the Respondent registered the disputed domain name with the knowledge of the Complainant and its trademark.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In this case, the composition of the disputed domain name that incorporates the Complainant's well-known mark, clear absence of rights or legitimate interests in the disputed domain name, the use of the disputed domain name targeting the Complainant's trademark, and the Respondent's choice not to submit any formal arguments in response to the Complaint, support finding of bad faith use of the disputed domain name.

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 <fortnumandmason-usa.com> be transferred to the Complainant.

/Olga Zalomiy/

Olga Zalomiy

Sole Panelist

Date: September 15, 2025