

## **ADMINISTRATIVE PANEL DECISION**

Faction Ltd v. Ferruccio Vacca

Case No. D2025-4602

### **1. The Parties**

Complainant is Faction Ltd, United Kingdom, represented internally.

Respondent is Ferruccio Vacca, Italy.

### **2. The Domain Name and Registrar**

The disputed domain name <testogen.org> is registered with Register SPA (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 6, 2025. On November 6, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 10, 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 (“Unknown (Privacy Protected)”) and contact information in the Complaint. The Center sent an email communication to Complainant on November 12, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on November 13, 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 Respondent of the Complaint, and the proceedings commenced on November 14, 2025. In accordance with the Rules, paragraph 5, the due date for Response was December 4, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on December 5, 2025.

The Center appointed Georges Nahichevansky as the sole panelist in this matter on December 11, 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.

On December 29, 2025, the Panel issued a procedural order. Complainant provided a response on January 20, 2026.

#### **4. Factual Background**

Complainant appears to sell dietary, nutritional, and men's health supplement products. Complainant maintains that it obtained rights in the mark TESTOGEN, which is used for an over-the-counter supplement providing testosterone support, through an October 30, 2025 assignment from a company called Health Nutrition Limited. That assignment included a United States trademark registration for the mark TESTOGEN (Registration No. 6501215) in connection with dietary and nutritional supplements in International Class 5 that issued to registration on September 28, 2021.<sup>1</sup>

Respondent appears to be based in Italy. The disputed domain name looks to have been registered on November 7, 2024 and at some point thereafter was used for a website promoting the sale of the TESTOGEN supplement and a new version called "Endopeak." That website is currently inaccessible and when a user attempts to access such a "403 Forbidden error" is received.

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Complainant contends that it owns rights in the TESTOGEN mark by virtue of the assignment it obtained in October 30, 2025 from a company called Health Nutrition Limited. Complainant further contends that the disputed domain is identical to Complainant's claimed mark as it fully consists of TESTOGEN.

Complainant asserts that Respondent does not have rights or legitimate interests in the TESTOGEN mark as Respondent (i) is not commonly known by "Testogen" and has no authorization from Complainant, and (ii) is not making a bona fide offering of goods or services or a legitimate noncommercial or fair use. In that regard, Complainant maintains the disputed domain name is being used to divert Internet users to an unrelated competing offer.

Lastly, Complainant argues that Respondent has registered and used the disputed domain name to create a likelihood of confusion with Complainant's TESTOGEN mark to redirect web users to a website promoting a competitor's product.

##### **B. Respondent**

Respondent did not reply to Complainant's contentions.

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<sup>1</sup> The assignment document provided by Complainant also includes the transfer of two logo registrations that include TESTOGEN: one in the European Union (Registration No. 017988789) and one in the United Kingdom (Registration No. UK00917988789), both for TESTOGEN TESTOSTERONE TRIPLE ACTION. The assignment document provided by Complainant lists these as covering International Classes 5 and 35 which are the classes that would cover Complainant's claimed TESTOGEN supplement and online retail services for selling such. A review of the European Union Intellectual Property Office ("EUIPO") and the United Kingdom Intellectual Property Office ("UKIPO") records, however, reveals that the registrations do not cover International Classes 5 and 35 as claimed in the assignment document, but only cover International Class 25 for "Headgear." While these registrations are now in the name of Complainant in the EUIPO and UKIPO records, Complainant does not rely on either of these two registrations in its Complaint.

## 6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) 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"](#)) at section 1.7.

Here, Complainant has shown rights in the TESTOGEN mark, which it obtained through an assignment, for purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The Panel finds that the disputed domain name is identical to Complainant's TESTOGEN mark as the disputed domain name fully and solely consists of the TESTOGEN mark with the generic Top-Level Domain ("gTLD") ".org."

The first element of the Policy has thus been established by Complainant.

### B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. 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.

Respondent's registration of the disputed domain name is clearly based on the TESTOGEN mark as it fully consists of that mark and has been used with a website that promoted the TESTOGEN supplement along with an alleged "new version" called "Endopeak." That new version appears to be a competitive product from another manufacturer. Notably, one of the email addresses used by Respondent, <[...]@us-testogen.com>, includes the domain name <us-testogen.com>. That domain name likewise resolves to a website promoting the TESTOGEN supplement along with an alleged "new version" under the name "Testosil," which is likewise a competing product from another manufacturer.

Needless to say, the disputed domain name and its associated website (when it was available) is likely to be mistakenly seen by consumers as related to Complainant and its TESTOGEN product, when, in fact, it has been used to promote and offer for sale a competing third party product. In all, it is clear that Respondent is using the disputed domain name for Respondent's commercial gain and not for bona fide use or legitimate fair use. WIPO Overview at sections 2.5.2. and 2.5.3.<sup>2</sup>

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

### **C. Registered and Used in Bad Faith**

The Panel notes that, for 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 view of Respondent's actions, and failure to appear in this proceeding, it is easy to infer that Respondent's registration and use of the disputed domain name, which is clearly based on Complainant's TESTOGEN mark has been done opportunistically and in bad faith to attract and redirect web traffic to a website essentially promoting a competitor's products for the benefit or profit of Respondent. The disputed domain name on its face suggests a connection to Complainant and its TESTOGEN products and was registered after rights had been established in the TESTOGEN mark, which Complainant acquired on October 30, 2025. The fact that it was quickly put to use by Respondent for a website ostensibly about the TESTOGEN product, but really promoting a competitor's product as a "new version" simply underscores Respondent's bad faith.

The Panel thus finds that 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 <testogen.org> be transferred to Complainant.

*/Georges Nahitchevansky/*

**Georges Nahitchevansky**

Sole Panelist

Date: January 22, 2026

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<sup>2</sup> Respondent's website includes a small disclaimer at the bottom of the website that reads as follows: "The display of third-party trademarks and trade names on this site does not necessarily indicate any affiliation or endorsements of our website." In the Panel's view that this small disclaimer buried at the bottom of Respondent's website is ineffective and further proof that Respondent understands that its website which suggests a clear connection to the TESTOGEN product and promotes an alleged new version of such is likely to be seen as connected to Complainant as the maker of TESTOGEN.