

## ADMINISTRATIVE PANEL DECISION

Earth, Wind & Fire IP, LLC v. Prodip Mondal  
Case No. D2025-4976

### 1. The Parties

The Complainant is Earth, Wind & Fire IP, LLC, United States of America, represented by Rimon, P.C., United States of America.

The Respondent is Prodip Mondal, India.

### 2. The Domain Name and Registrar

The disputed domain name <ewfmerch.com> is registered with NameCheap, Inc. (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 30, 2025. On December 1, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 2, 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, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 2, 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 December 2, 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 December 9, 2025. In accordance with the Rules, paragraph 5, the due date for Response was December 29, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 30, 2025.

The Center appointed David Stone as the sole panelist in this matter on January 13, 2026. 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 the owner of the intellectual property rights in the well-known band Earth, Wind & Fire. Over more than 50 years, Earth, Wind & Fire has sold in excess of 90 million records worldwide. Earth, Wind & Fire has been awarded (among other accolades) several Grammy Awards, including a Lifetime Achievement award, and was inducted into the Rock and Roll Hall of Fame in 2000.

The Complainant is owner of the following trademark registration: EARTH, WIND & FIRE – United States of America Trademark registration No. 3,063,785 registered on February 28, 2006, in international class 25 (the “Band Name”).

The Complainant has used the abbreviation “EWF” (the “Mark”) on album artwork, official merchandise and/or on its official channels for at least 30 years. On November 19, 2025, the Complainant applied for a United States of America Trademark registration in respect of the Mark.

The Respondent registered the disputed domain name <ewfmerch.com> on February 23, 2024. At the time of this Decision, the disputed domain name resolves to a website that: (i) shows the Band Name in the top left-hand corner; (ii) uses the page name “Ewf Merch – Earth, Wind & Fire Official Store”; (iii) describes itself on its “blog” page as “the Ewf Merch Official Store”; and (iv) states on its “about” page: “All Ewf Band Merch products are officially licensed and approved by the band itself” and “By purchasing Ewf Merch, you are directly supporting the band. The revenue generated from merchandise sales goes back to the band, [...]. At the time of this Decision, the “shop now” and “store” pages redirect to an error 404 message at “www.teebello.com”, a third-party 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.

In relation to the first element, the Complainant contends that “merch” is entirely descriptive and does nothing to distinguish the disputed domain name from the Mark. Rather, the disputed domain name suggests an official website offering the Complainant’s merchandise.

In relation to the second element, the Complainant contends that the Respondent is not affiliated with the Complainant, nor authorized by the Complainant to use the Band Name or the Mark in any manner: the Respondent is not an authorized distributor, licensee, reseller, or partner of the Complainant and has never been granted any permission to sell the Complainant’s goods. The Complainant contends that the Respondent is not commonly known by the Mark, the Band Name, or by the disputed domain name. It is also contended that the Respondent’s conduct not only infringes the Complainant’s rights but also deceives consumers, who are led to believe they are purchasing official merchandise and supporting the band.

In relation to the third element, the Complainant contends that the Respondent’s actions are clearly intended to attract, for commercial gain, Internet users by exploiting the goodwill associated with the Complainant’s famous marks. The Complainant also contends that, given the longstanding fame, distinctiveness, and global reach of the Complainant’s marks, it is implausible that the Respondent was unaware of the Complainant’s rights at the time of registration.

## **B. Respondent**

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

## **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 Mark 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 Panel accepts the Complainant's evidence that, dating back to 1996, a number of its album covers show the Mark prominently as a source identifier (in some cases, the only source identifier). The Panel accepts from the evidence of the Complainant's vast sales figures that it had significant sales under the Mark as a result of sales of those albums. The Panel accepts the Complainant's evidence that the Mark is used by third-parties to refer to the band. Further, the fact that the Respondent has been shown to have targeted the Mark, as set out below, based on the manner in which the Respondent's website is used, supports the Complainant's assertion that the Mark has achieved significance as a source identifier. [WIPO Overview 3.0](#), section 1.3.

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

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.

Although the addition of other terms, here, "merch", may bear on assessment of the second and third elements, the Panel finds the addition of such term 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.

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.

Further, the website to which the disputed domain name resolves does not fall under the safeguards of fair use envisioned under section 2.8 of the [WIPO Overview 3.0](#), considering the lack of disclaimer on the website as to its lack of association with the Complainant. To the contrary, the website claims falsely to be the official merchandise store of the Complainant.

Furthermore, Panels have held that the use of a domain name for illegitimate activity, here, claimed sale of counterfeit goods and impersonation/passing off can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 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 is hosting at the disputed domain name a website that: (i) shows the Band Name in the top left-hand corner; (ii) uses the page name “Ewf Merch – Earth, Wind & Fire Official Store”; (iii) describes itself on its “blog” page as “the Ewf Merch Official Store”; and (iv) states on its “about” page: “All Ewf Band Merch products are officially licensed and approved by the band itself” and “By purchasing Ewf Merch, you are directly supporting the band. The revenue generated from merchandise sales goes back to the band, [...].”

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.

Panels have found that evidence of a respondent seeking to cause confusion supports a finding that a respondent has registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant’s mark. [WIPO Overview 3.0](#), section 3.1.4.

The Panel finds that the content of the website at the disputed domain name is suggestive of bad faith because it is evidence of the Respondent seeking to cause confusion. The statement on the Respondent’s website that it is the official merchandise store of the Complainant is false and the website, as a whole, shows an intention of the Respondent to confuse and thereby attract Internet users to its website for commercial gain.

Further, Panels have held that the use of a domain name for illegal activity, here, claimed sale of counterfeit goods and impersonation/passing off, or other types of fraud, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Furthermore, the Respondent has not attempted to refute any of the Complainant’s contentions, which casts additional doubt on the nature of its conduct. [WIPO Overview 3.0](#), section 3.2.1.

Having reviewed the record, the Panel concludes that the actions of the Respondent in choosing the disputed domain name were aimed at attracting, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s Mark. The Panel therefore concludes that the disputed domain name was registered and is being used in bad faith.

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 <ewfmerch.com> be transferred to the Complainant.

*/David Stone/*  
**David Stone**  
Sole Panelist  
Date: January 27, 2026