ADMINISTRATIVE PANEL DECISION
Fishbull Franz Fischer SE & Co. KG v. P Russell Mary, MaryP Russell
Case No. D2026-1588

1. The Parties

Complainant is Fishbull Franz Fischer SE & Co. KG, Germany, represented by Boehmert & Boehmert, Germany.

Respondent is P Russell Mary, MaryP Russell, United States of America (the "United States").

2. The Domain Name and Registrar

The disputed domain name <sonderpreis-baumarkts.com> is registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 16, 2026. On April 17, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 20, 2026, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from named Respondent (Whois Privacy Protection Service by onamae.com) and contact information in the Complaint. The Center sent an email communication to Complainant on April 20, 2026, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on April 20, 2026.

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 Respondent of the Complaint, and the proceedings commenced on April 27, 2026. In accordance with the Rules, paragraph 5, the due date for Response was May 17, 2026. Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 20, 2026.

The Center appointed Gabriel F. Leonardos as the sole panelist in this matter on May 27, 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

Complainant is a German company that operates the "Sonderpreis Baumarkt" discount DIY store concept with numerous locations across Germany. These stores focus on providing a broad range of hardware, home improvement, gardening, and everyday household products at low prices.

Its activities can be found on the websites displayed on Complainant's domain names <sonderpreis-baumarkt.com> and <sonderpreis-baumarkt.de>. In addition to said domain names, Complainant also owns a registration for the SONDERPREIS! BAUMARKT mark:

Registration Number	Trademark	Jurisdiction	International Class	Registration Date
011273117	SONDER PREIS! Baumarkt	European Union	45	June 12, 2014

The disputed domain name was registered on March 16, 2026, and resolves to a webpage that displays Complainant's trademark, imitates its official website, and offers products similar to those found in Complainant's retail DIY stores.

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.

Notably, Complainant contends that the disputed domain name reproduces the SONDERPREIS! BAUMARKT trademark in its entirety with the mere addition of the letter "s", which would not be sufficient to avoid the likelihood of confusion and was added only to create a typo domain and confuse the user. Therefore, according to Complainant, the disputed domain name is confusingly similar to Complainant's trademarks, fulfilling paragraph 4(a)(i) of the Policy.

Complainant affirms that Respondent is not known by the disputed domain name and was not authorized to use Complainant's trademarks in any way. Accordingly, there are no circumstances that justify Respondent's registration of the disputed domain name, especially when considering its apparent intention to divert and confuse Internet users into believing that Respondent is associated with Complainant's business. Therefore, it states that Respondent lacks rights or legitimate interests, fulfilling paragraph 4(a)(ii) of the Policy.

Also, Complainant urges that the disputed domain name was registered in bad faith. Complainant argues that Respondent has not demonstrated any legitimate use of the disputed domain name, but it is intentionally trying to attract Internet users and obtain financial gain by creating a likelihood of confusion.

According to Complainant, Respondent displays the Complainant's trademark on the related website and has also used an identical website design for the purpose of misleading Internet users.

Moreover, Complainant argues that, considering the usage of the SONDERPREIS! BAUMARKT trademark on the website, Respondent must have been aware of Complainant's reputation and trademarks at the time of registration of the disputed domain name.

Thus, according to Complainant, the requirements for the identification of a bad faith registration and use of the disputed domain name have been fulfilled, pursuant to paragraphs 4(a)(iii) and 4(b) of the Policy.

Accordingly, Complainant requests that the disputed domain name be transferred to Complainant.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

To succeed in a UDRP complaint, Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
(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.

The burden of proving these elements is upon Complainant.

Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the complaint, in the absence of exceptional circumstances, the panel's decision shall be based upon the complaint.

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 Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Select UDRP Questions, ("WIPO Overview 3.1"), section 1.7.

Based on the available record, the Panel finds Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. WIPO Overview 3.1, section 1.2.1.

The entirety of the SONDERPREIS! BAUMARKT trademark 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 3.1, section 1.7.

Although the addition of the letter "s", here a plural "s", may bear assessment of the second and third elements, the Panel finds that such measure does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. WIPO Overview 3.1, section 1.9. Also, in this sense, see *Ponycycle, Inc. v. Julian Power*, WIPO Case No. DAU2022-0030.

Therefore, based on the available record, 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 Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on 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 Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on Complainant). If Respondent fails to come forward with such relevant evidence, Complainant is deemed to have satisfied the second element. WIPO Overview 3.1, 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 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.

Based on the available record, Respondent is not entitled to any trademark, trade name, or any other right associated with the disputed domain name. Additionally, in the absence of evidence to the contrary, Respondent is not commonly known by the disputed domain name and has not been authorized by Complainant to use the SONDERPREIS! BAUMARKT trademark, and there is no commercial relationship between the Parties.

Panels have held that the use of a domain name for illegal activity, here claimed as passing off, can never confer rights or legitimate interests on a Respondent. WIPO Overview 3.1, section 2.13.1.

In light of these circumstances, the Panel finds that no rights or legitimate interests can be found on behalf of Respondent.

Accordingly, 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 Respondent has registered the disputed domain name that is confusingly similar to Complainant's SONDERPREIS! BAUMARKT trademark. Also, based on the available record, it was established that Respondent has no affiliation with Complainant and its trademarks, nor has it sought authorization or a license to utilize the referred trademarks. Also, Respondent does not appear to own any trademarks containing the term "sonderpreis! baumarkt" nor has it showed any rights over the trademarks or any related terms.

Respondent evidently knew or should have known of the existence of Complainant's prior trademark rights and domain names, which were matters of public record, before registering the disputed domain name, as evidenced by the use of the SONDERPREIS! BAUMARKT trademark and logo on the website.

The registration of the disputed domain name was carried out by Respondent, who had the responsibility to verify whether the domain name registration infringes or violates someone else's rights.

Considering Complainant's activities and the nature of the disputed domain name which was registered and used, it may be inferred that the registration and use of the disputed domain name was done with the intention to take advantage of the SONDERPREIS! BAUMARKT trademark and attract Internet users for commercial gain.

As stated in the Complaint and shown in its annexes, Respondent used Complainant's trademark and overall visual identity on the website related to the disputed domain name. Previous panels have found that the imitation of a website's design, colorscheme and marks demonstrated that the domain name was used in bad faith, see *Cdiscount v. Contact Privacy Inc. Customer 0155775631 / Jaouad Jermoune, cdiscount1*, WIPO Case No. D2019-3003.

Therefore, based on the available record, the Panel 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 <sonderpreis-baumarkts.com> be transferred to Complainant.

/Gabriel F. Leonardos/
Gabriel F. Leonardos
Sole Panelist
Date: June 15, 2026