ADMINISTRATIVE PANEL DECISION

Maesa LLC v. Xavier Lexington
Case No. D2026-2705

1. The Parties

The Complainant is Maesa LLC, United States of America ("U.S."), represented by Dorf Nelson & Zauderer LLP, U.S.

The Respondent is Xavier Lexington, U.S.

2. The Domain Name and Registrar

The disputed domain name <thefineryfragrance.shop> ("Disputed Domain Name") is registered with Dynadot Inc (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 22, 2026. On June 23, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On June 25, 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 the named Respondent (Dynadot Privacy Service, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 25, 2026, 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 June 25, 2026.

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 June 26, 2026. In accordance with the Rules, paragraph 5, the due date for Response was July 16, 2026. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 20, 2026.

The Center appointed Colin T. O'Brien as the sole panelist in this matter on July 28, 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

On or around October 27, 2022, the Complainant began offering the FINE'RY brand of perfume products and currently sells them to Target retail stores and via the domain names <target.com>, <Amazon.com>, and TikTok Shop.

The Complainant owns the following trademark registrations:

- FINE'RY U.S. Registration No.: 8,215,040 registered on April 14, 2026, for "Body wash; Skin cleansers; Non-medicated skin care preparations; Non-medicated soaps for the body";

- FINE'RY U.S. Registration No.: 7,147,298 registered on August 22, 2023, for "Cologne; Fragrances for personal use; Perfumes; Scented body spray; Toilet water".

- FINE'RY U.S. Registration No.: 7,860,249 registered on July 8, 2025, for "Candles".

- FINE'RY International Registration No.: 1795788 registered on April 24, 2024 (designating, inter alia, Australia, China, the European Union, and the United Kingdom) for, inter alia, cologne; fragrances for personal use; perfumes; scented body spray; toilet water.

The Disputed Domain Name was registered on May 18, 2026. The Disputed Domain Name resolves to a website displaying the Complainant's FINE'RY trademark and product images, purportedly offering the Complainant's products for sale at significantly discounted prices.

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 incorporates the Complainant's mark, FINE'RY, removing the apostrophe from the mark, and adding the generic terms of "the" and "fragrance" and the generic Top-Level domain ("gTLD") ".shop":

The term "finery" is clearly recognizable as the Complainant's trademark within the Disputed Domain Name and is, in fact, the dominant and only distinctive element of the Disputed Domain Name. The omission of an apostrophe and the simultaneous addition of the descriptive terms are not sufficient to prevent a finding of a likelihood confusion.

The Respondent was not known by the Disputed Domain Name prior to May 18, 2026, which is the date of registration of the Disputed Domain Name. The Complainant has not authorized, licensed, or otherwise permitted the Respondent to use its FINE'RY mark or any variation thereof.

The Disputed Domain Name incorporates the Complainant's mark without authorization and the Respondent uses the Dispute Domain Name to provide a website that contains further illegitimate and unauthorized uses of both the Complainant's FINE'RY trademark and other trademarks that the Complainant uses in connection with its FINE'RY brand, namely, several of the individual product names of the brand's fragrances for which the Complainant filed U.S. trademark applications and for which registration certificates as well as notices of allowance have issued.

The Respondent uses the Complainant's own photograph of the various FINE'RY fragrances that display the FINE'RY trademark and its fragrance names. The Respondent's illegitimate interest in using the Disputed Domain Name is to either to sell, without authorization, the Complainant's goods or to deceive consumers into entering their personal identifying information at checkout, after consumers mistakenly believe that the Respondent's goods are authorized by the Complainant.

The Respondent registered the Disputed Domain Name incorporating the Complainant's world-famous trademark. Therefore, one may infer that the Respondent selected the Disputed Domain Name because of its correspondence to the Complainant's trademark and is intentionally using it to create a false impression of association with the Complainant.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated it owns registered trademark rights in the FINE'RY mark. The Disputed Domain Name reproduces the Complainant's mark and adds the descriptive terms "the" and "fragrance". Such additions do not prevent a finding of confusing similarity for the purposes of the Policy. The gTLD ".shop" is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test.

Accordingly, the Disputed Domain Name is confusingly similar to a mark in which the Complainant has rights. See WIPO Overview of WIPO Panel Views on Select UDRP Questions ("WIPO Overview 3.1"), sections 1.7, 1.8, and 1.11.1.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant has presented a prima facie case that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and has not been commonly known by the Disputed Domain Name. There is no evidence that the Respondent was ever authorized to sell the Complainant's products nor was it ever affiliated with the Complainant. Further, even if the Respondent was to be considered a reseller of the Complainant's products –something that the Panel is unable to determine based on the available record – the Respondent's use of the Disputed Domain Name does not comply with the test established in *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. D2001-0903. The evidence provided by the Complainant shows that the Disputed Domain Name resolves to an active website seemingly impersonating the Complainant by featuring the Complainant's trademark, and copyrighted images of the Complainant's trademarked goods. While resellers and distributors may have limited rights to use a complainant's trademark for nominative purposes, the lack of any information on the website at the Disputed Domain Name as to the website's lack of authorization or relation to the Complainant, renders any fair use safe haven inapplicable in this instance. See section 2.8.1 of the WIPO Overview 3.1.

The Panel further notes that the confusingly similar nature of the Disputed Domain Name to the Complainant's trademark carries a risk of implied affiliation, especially when considering the absence of a disclosure regarding the lack of relationship between the Disputed Domain Name and the Complainant's trademark, and as such the Respondent's use of the Disputed Domain Name cannot be considered as fair use. See section 2.5.1 of the WIPO Overview 3.1.

The Panel further notes that the Disputed Domain Name is purportedly offering the Complainant's products at heavily discounted prices, which raises doubts as to their legitimacy.

After a complainant has made a prima facie case, the burden of production shifts to a respondent to present evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.,* WIPO Case No. D2003-0455; and WIPO Overview 3.1, section 2.1.

Here, the Respondent has provided no evidence of any rights or legitimate interests in the Disputed Domain Name.

In the absence of any evidence rebutting the Complainant's prima facie case indicating the Respondent's lack of rights or legitimate interests in respect of the Disputed Domain Name, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The disputed domain name was registered four years after the Complainant first used its FINE'RY mark. The evidence on the record provided by the Complainant is sufficient to satisfy the Panel that, at the time the Disputed Domain Name was registered, the Respondent most likely than not knew of the Complainant's FINE'RY mark.

Further, the Panel finds the use of the Disputed Domain Name by the Respondent is in bad faith. Paragraph 4(b)(iv) of the Policy states that evidence of bad faith may include a respondent's use of a domain name to intentionally attempt to attract, for commercial gain, Internet users to the respondent's website or other online location, by creating a likelihood of confusion with the complainant's mark. The evidence – including the website content and composition of the Disputed Domain Name – shows that the Respondent has created a website at the Disputed Domain Name with the intention to confuse unsuspecting Internet users into believing that the Disputed Domain Name is operated by the Complainant or somehow affiliated or authorized by it.

In the absence of any evidence or explanation from the Respondent, the Panel finds that the registration and use of the Disputed Domain Name have been in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) 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 <thefineryfragrance.shop> be transferred to the Complainant.

/Colin T. O'Brien/
Colin T. O'Brien
Sole Panelist
Date: August 11, 2026