ARBITRATION
AND
MEDIATION CENTER

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

ADMINISTRATIVE PANEL DECISION
FISHBULL Franz Fischer SE & Co. KG v. Ginn Donna
Case No. D2026-3381

1. The Parties

The Complainant is FISHBULL Franz Fischer SE & Co. KG, Germany, represented by BOEHMERT & BOEHMERT Anwaltspartnerschaft mbB, Germany.

The Respondent is Ginn Donna, United States of America.

2. The Domain Name and Registrar

The disputed domain name <germaniawerkzeuge.com> is registered with Gname.com Pte. Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 30, 2026. On July 30, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 31, 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 (Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 4, 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 amendment to the Complaint on August 4, 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 the Respondent of the Complaint, and the proceedings commenced on August 6, 2026. In accordance with the Rules, paragraph 5, the due date for Response was August 26, 2026. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 27, 2026.

The Center appointed Anne-Virginie La Spada as the sole panelist in this matter on August 31, 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 a company based in Germany that operates a “do-it-yourself” discount store concept under the name “Sonderpreis Baumarkt”, through an online store and a network of over 350 physical stores across Germany. Such concept focuses on the provision of a broad range of hardware, home improvement, gardening and everyday household products. The Complainant markets a wide range of private-label products under its mark GERMANIA QUALITÄTSWERKZEUGE.

The Complainant is the owner of the following trademark registration:

- German trademark registration No. 302016024546 for GERMANIA QUALITÄTSWERKZEUGE & design, registered on June 15, 2017, in classes 2, 4, 6, 7, 8, 9, 12, 14, 19, 20 and 22.

The disputed domain name was registered on February 13, 2025.

The Complainant asserts that the disputed domain name resolves to an active website purportedly offering the Complainant’s goods bearing the mark GERMANIA QUALITÄTSWERKZEUGE & design. The Panel observes, however, that the evidence provided in support of this alleged use concerns another domain name. Nevertheless, having regard to its general powers under paragraphs 10 and 12 of the Rules, the Panel visited the website connected to the disputed domain name and verified that the use described by the Complainant also pertains to the disputed domain name. The website does not include any indication of the person of entity responsible for its operation, although an address in Kiel, Germany, is mentioned in the “contact” section of the website. While the language mainly used on the website is German, some sections – including the “About us” section - are in French.

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 protected trademark. Indeed, the Complainant points out that the disputed domain name includes its trademark GERMANIA QUALITÄTSWERKZEUGE, omitting only the word “Qualität” (meaning “quality” in English).

The Complainant also states that the Respondent does not have rights or legitimate interests in the disputed domain name. The Complainant has not licensed or otherwise permitted the Respondent to use its trademark or to register a domain name incorporating its trademark. According to the Complainant, the Respondent has no legitimate reason to use the disputed domain name, except to divert Internet users who believe it to be associated with the Complainant’s business. As far as the Complainant can see, the Respondent does not have any trademark rights. There is also no evidence of bona fide use. The Respondent’s website does not meet the conditions of the Oki Data test, notably because it fails to disclose the absence of relationship with the Complainant.

The Complainant contends finally that the Respondent has registered and used the disputed domain name in bad faith. According to the Complainant, given the distinctive character of the Complainant’s trademark, the adoption of the disputed domain name by the Respondent cannot be a coincidence. The only reason why the Respondent uses the disputed domain name is to attract customers who believe that the Complainant is responsible for the Respondent's website. By using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website, within the meaning of paragraph 4(b)(iv) of the Policy.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, a complainant must assert and prove each of the following:

(i) the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights;

(ii) the respondent has no rights or legitimate interests in respect of the domain name; and

(iii) the domain name registered by the respondent 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 Select UDRP Questions ("WIPO Overview 3.1"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. WIPO Overview 3.1, 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 3.1, section 1.7.

Indeed, the disputed domain name reproduces the first and the third word elements composing the Complainant's trademark, namely "germania" and "werkzeuge", leaving out the middle word element "qualität" (meaning "quality" in English). The Panel is of the view that the omission of this middle element does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy, as the Complainant's mark remains recognizable within the disputed domain name and, especially when, as here, the dominant element of the trademark, namely "germania", is reproduced at the beginning of the disputed domain name. WIPO Overview 3.1, section 1.7.

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 that 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 3.1, 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.

Indeed, based on the information submitted by the Complainant, the Complainant has not granted the Respondent authorization to use its trademark within the disputed domain name. Moreover, there is no evidence indicating that the Respondent is commonly known by the disputed domain name.

UDRP Panels have recognized that resellers, distributors, or service providers using a domain name containing the complainant's trademark to undertake sales or repairs related to the complainant's goods or services may be making a bona fide offering of goods and services and thus have a legitimate interest in such domain name (section 2.8 of the WIPO Overview 3.1). Outlined in the "Oki Data test" (*Oki Data Americas Inc. v. ASD, Inc.*, WIPO Case No. D2001-0903), the following cumulative requirements will be applied in the specific conditions of a UDRP case: (i) the respondent must actually be offering the goods or services at issue; (ii) the respondent must use the site to sell only the trademarked goods or services; (iii) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and (iv) the respondent must not try to "corner the market" in domain names that reflect the trademark.

In the present case, the Respondent is using the disputed domain name in connection with a website that purportedly offers the Complainant's goods. Assuming this to be the case, the Panel observes that such website does not feature any disclaimer concerning the relationship between the Respondent and the Complainant. By failing to accurately disclose the relationship, or rather lack thereof with the Complainant, the Respondent conveyed the false impression that the Respondent is affiliated or authorized by the Complainant itself, where this is not the case. The conditions of the Oki Data test are not satisfied.

Moreover, the fact that the Respondent's website contains no indication of the identity of the person or legal entity responsible for the operation of the website is a further indication that the Respondent does not hold rights or legitimate interests.

Finally, the Respondent did not file a Response to the Complaint. The Panel may draw from the lack of a Response the inferences that it considers appropriate, according to the Rules, paragraph 14(b).

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.

Given that the trademark of the Complainant is distinctive and has been widely used in Germany before the registration of the disputed domain name, , the Panel accepts that the Respondent was more likely than not aware of the existence of the Complainant and of its GERMANIA QUALITÄTSWERKZEUGE trademark at the time of the registration of the disputed domain name. Therefore, the Panel holds that the disputed domain name was registered in bad faith.

The Respondent has used the disputed domain name in connection with a website purportedly selling the Complainant's goods but without any indication of the Respondent's identity nor any disclaimer concerning its lack of relationship with the Complainant. Such use is apt to create the false impression that the website is operated or endorsed by the Complainant, thus misleading, for commercial gain, consumers looking for the Complainant's website. Accordingly, the Panel finds it likely that the Respondent intentionally attempted to created a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website. This is a circumstance of use of a domain name in bad faith according to paragraph 4(b)(iv) of the Policy.

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 <germaniawerkzeuge.com> be transferred to the Complainant.

/Anne-Virginie La Spada/
Anne-Virginie La Spada
Sole Panelist
Date: September 15, 2026