

ADMINISTRATIVE PANEL DECISION

Fitness First Germany GmbH v. James Brooks
Case No. D2026-3673

1. The Parties

The Complainant is Fitness First Germany GmbH, Germany, represented by Osborne Clarke GmbH & Co. KG, Germany.

The Respondent is James Brooks, United States of America.

2. The Domain Name and Registrar

The disputed domain name <fitnessfirstberlin.com> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 17, 2026. On August 17, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 18, 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 August 18, 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 August 18, 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 August 19, 2026. In accordance with the Rules, paragraph 5, the due date for Response was September 8, 2026. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 9, 2026.

The Center appointed Federica Togo as the sole panelist in this matter on September 9, 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

It results from the Complainant's undisputed allegations that the Complainant is a fitness studio operator, which runs more than 200 fitness centres under FITNESS FIRST designation in Germany. Under the FITNESS FIRST brand, fitness centres have been successfully operated in over 15 countries around the world for several decades.

The Complainant is the registered owner of several trademarks for FITNESS FIRST, e.g. International Registration No. 1159407 FITNESS FIRST (word) designating the European Union, registered on January 23, 2013, for goods and services in classes 25, 41, and 44.

In addition, the Complainant also incorporates the FITNESS FIRST trademark as part of its company name and uses the domain name <fitnessfirst.de> for its official website.

The disputed domain name <fitnessfirstberlin.com> was created on November 12, 2025. Furthermore, the undisputed evidence provided by the Complainant proves that the disputed domain name resolves to a website displaying without authorisation the Complainant's trademark and logo and allegedly offering fitness studios/services using the FITNESS FIRST trademarks and reproducing the content of Complainant's official 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.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the Complainant's trademark since it reproduces FITNESS FIRST trademark in its entirety, plus the geographic term "berlin", which reinforces the association with the Complainant. It will be understood by Internet users as indicating a regional presence of one or more FITNESS FIRST studios in Berlin.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, it has never authorised, licensed, or otherwise permitted the Respondent in any way to register or use the disputed domain name, or to use the FITNESS FIRST trademark. Besides that, Respondent is not a franchisee, partner, authorised agent, or affiliate of Complainant. There is no relationship of any kind between Complainant and Respondent that could provide a legitimate basis for Respondent's registration or use of the disputed domain name. Furthermore, the Respondent is using the disputed domain name to operate a website whose content is identical to that of Complainant's legitimate website. The website reproduces, without authorisation, the content, get-up, and presentation of Complainant's official online presence.

In the present case, the disputed domain name combines the FITNESS FIRST trademark with a geographical indication. This falsely gives the impression that the fitness studios of the Complainant in Berlin are operated under the disputed domain name in question and that the studios can be contacted via the associated website.

Furthermore, the Complainant contends that the disputed domain name was registered and is being used in bad faith. According to the Complainant, its FITNESS FIRST trademarks are internationally recognised, as they have been used in connection with fitness studios for many years and have acquired substantial goodwill and reputation. It is inconceivable that Respondent could have selected the disputed domain name without knowledge of Complainant's trademark. This conclusion is confirmed by the conduct of Respondent itself: operating a website that reproduces content that is identical to Complainant's official website. The disputed domain name combines the entirety of Complainant's designation FITNESS FIRST with the geographic term "berlin", a city in which Complainant operates fitness studios, presenting itself to any ordinary Internet user as an official regional web presence for Complainant's fitness business. The website at the disputed domain name reproduces content identical to Complainant's legitimate website. The Respondent has replicated the look, feel, and content of Complainant's official online presence in order to divert Internet users who seek Complainant's genuine services.

Internet users who visit the website at the disputed domain name may submit personal data, including contact details, membership enquiries, payment information, or health-related data of a sensitive character, to an anonymous and wholly unauthorised third party.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable". Paragraph 4(a) of the Policy requires a complainant to prove each of the following three elements in order to obtain an order that each disputed domain name be transferred or cancelled:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) the 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 Panel will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

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 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 3.1](#), section 1.7.

Although the addition of other terms - here "berlin" - 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 3.1](#), 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 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.

Moreover, the Panel notes that the disputed domain name contains the Complainant’s registered trademark and a geographic term (“berlin”). The nature of this disputed domain name carries a risk of implied affiliation: in fact, geographic terms (e.g., <trademark-usa.com>, or <trademark.nyc>) are typically seen as tending to suggest sponsorship or endorsement by the trademark owner, see [WIPO Overview 3.1](#) at section 2.5.1. Panels have also held that the use of a domain name for illegitimate activity (here, claimed copycat site, passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.1](#), section 2.13.1.

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.

One of these circumstances is that the Respondent, by using the disputed domain name, has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of its website or online location or of a product or service on its website or online location (paragraph 4(b)(iv) of the Policy).

In the present case, the Panel notes that it results from the Complainant’s documented allegations that the disputed domain name resolves to a website displaying without authorisation the Complainant’s registered trademark and logo allegedly offering identical services to those marketed by the Complainant (i.e. fitness studios/services using the FITNESS FIRST trademarks) and reproducing the content of Complainant’s official website.

By the time the disputed domain name was registered, the Panel considers it to be unlikely that the Respondent did not have knowledge of the Complainant and its mark, which is entirely included in the disputed domain name, together with the additional geographic term referring to Berlin, a city in which the Complainant operates fitness studios. Consequently, and in the absence of any evidence to the contrary,

the Panel is convinced that the Respondent knew about the Complainant and its trademark when it registered the disputed domain name.

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 3.1](#), section 3.2.1. On this regard, the further circumstances surrounding the disputed domain name's registration and use, taken together, confirm the findings that the Respondent has registered and is using the disputed domain name in bad faith:

- (i) the nature of the disputed domain name (wholly incorporating the Complainant's trademark plus the geographic term "berlin";
- (ii) the content of the website to which the disputed domain name resolves (i.e., displaying without authorisation the Complainant's registered trademark and allegedly offering identical services to those marketed by the Complainant (i.e. fitness studios/services using the FITNESS FIRST trademarks) and reproducing the content of Complainant's official website);
- (iii) a clear absence of rights or legitimate interests coupled with no substantive response and explanation for the Respondent's choice of the disputed domain name; and
- (iv) the Respondent concealing its identity through a privacy service.

Panels have held that the use of a domain name for illegitimate activity (here, claimed copycat site, passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.1](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under 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 <fitnessfirstberlin.com> be transferred to the Complainant.

/Federica Togo /

Federica Togo

Sole Panelist

Date: September 9, 2026