

## **ADMINISTRATIVE PANEL DECISION**

Datawest Group Pty Ltd T/A Recycle IT Australia v. Mohammad Qureshi,  
Baagb Pty Ltd and Qureshi, Mohammad Amir  
Case No. DAU2025-0050

### **1. The Parties**

The Complainant is Datawest Group Pty Ltd T/A Recycle IT Australia, Australia, represented internally.

The Respondents are Mohammad Qureshi, Baagb Pty Ltd, Australia and Qureshi, Mohammad Amir, Australia.

### **2. The Domain Names and Registrars**

The disputed domain name <fabulesrecycleit.com.au> is registered with Web Address Registration Pty Ltd. The disputed domain name <fabulesrecyclifyit.com.au> is registered with Domain Directors Pty Ltd. Each, a Registrar.

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 10, 2025. On November 12, 2025, the Center transmitted by email to the Registrars requests for registrar verification in connection with the disputed domain names. On November 13, 2025, and November 24, 2025, Web Address Registration Pty Ltd and Domain Directors Pty Ltd. transmitted by email to the Center their respective verification responses disclosing registrant and contact information for the disputed domain names which partly differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on December 5, 2025, providing the registrant and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on December 16, 2025.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the .au Dispute Resolution Policy (the "Policy"), the Rules for .au Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for .au Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondents of the Complaint, and the proceedings commenced on December 16, 2025. In accordance with the Rules, paragraph 5(a) and 5(d), the due date for Response was January 5, 2026. On December 17, 2025, however, the Center received two email communications from the Respondent (or Respondents), requesting

extension of the Response due date. On December 23, 2025, the Response due date was extended to January 10, 2026. The Respondent (or Respondents) sent further email communications to the Center on January 8 and 15, 2026. In the Respondents' email communications, the Respondent (or Respondents) stated he was overseas due to the death of his father, returning to Australia on January 17, 2026 and claiming he needed to seek legal advice.

The Center appointed Warwick A. Rothnie as the sole panelist in this matter on January 21, 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.

In reply to these assertions, the Complainant quite properly pointed out that in this day and age with Internet accessibility, it was not necessary for the Respondent to be physically present in Australia to deal with the Complaint. That is plainly correct and it is only in very unusual cases where the fact of travel overseas would provide a basis for an extension of time.

On reviewing the case file and the Respondents' explanations, the Panel on appointment considered it was appropriate in the particular circumstances of this case and in light of the potential difficulties of identifying and receiving legal advice in Australia across the Christmas / New Year period (coinciding with the customary long summer holiday period) to grant an extension in the exercise of the powers under paragraph 10(c) of the Rules allowing the Respondents until February 11, 2026 to file their Response and allowing the Complainant until February 18, 2026 for any reply.

In the event, a Response was submitted on behalf of the Respondents on January 29, 2026. No further material was received from the Complainant. On February 26, 2026, however, the Center received a further email communication from the Respondents.

#### **4. Factual Background**

The Complainant trades under the business name "Recycle IT Australia", carrying on a business in connection with electronic waste recycling, secure data destruction and related environmental management services.

According to the Complaint, it has been doing so since its incorporation in June 2018. Its headquarters are in Western Australia but it says it has been operating throughout Australia since 2018. The Complainant markets its services from a website at "www.recycle-it.com.au". The Complainant has also registered the domain name <recycleit.au> which redirects to the website at "www.recycle-it.com.au".

The Complainant is the owner of Australian Registered trade mark No 2448363 for the following figurative mark:



The trade mark has been registered with effect from May 7, 2024 (its filing date) in respect of data cleaning services; data cleansing services; data management in International Class 35 and recycling; recycling of electronic devices; document destruction in International Class 40.

The first Respondent's company was incorporated on October 30, 2023.

According to the .au Domain Administration (“auDA”) Whois Reports:

- (a) The first disputed domain name, <fabulesrecycleit.com.au>, was registered on November 5, 2023; and
- (b) The second disputed domain name, <fabulesrecyclifyit.com.au>, was registered on October 14, 2025.

The second Respondent, Mr Qureshi, is the registrant of the first disputed domain name; the first Respondent, of the second disputed domain name.

From the materials received on behalf of the Respondents, it appears that Mr Qureshi is involved in some way in a business being conducted first under the name “Fabuleless Recycle IT” and then, through the first Respondent, “Fabuleless Recyclify IT”. Communications have also been received from Beenish Aamir under the title Business Development Manager of both “Fabuleless Recycle IT” and more recently “Fabuleless Recyclify IT”.

Initially, the first disputed domain name resolved to a website which the Panel understands was headed with a logo:



(The logo was also used in emails sent by Mr. Beenish Aamir before mid-October 2025.) According to the Response and the screenshot of the website described below, the website was being used to promote the services of “Fabuleless Recycle IT”.

In response to an email from the Complainant on October 1, 2025, warning that it considered the use of the first disputed domain name and the name “Fabuleless Recycle IT” infringed its rights, on October 15, 2025, Mr. Beenish Aamir (describing himself as the owner) informed the Complainant that operations under “Fabuleless RecycleIT” would cease. This statement was made without any admission of liability.

In a subsequent email on October 20, 2025, however, Mr Beenish Aamir refused to transfer the first disputed domain name to the Complainant but stated the first disputed domain name and the website had been decommissioned and were no longer in use.

Meanwhile, the first Respondent registered the business name “Fabuleless Recyclify IT”. Although its registered address is different, this business operates from the same address as was being used by “Fabuleless Recycle IT”.

In November 2025, the Complainant discovered that the first disputed domain name was now redirecting to the website at “www.recyclifyit.com.au”. The second website promotes the secure IT recycling services of the first Respondent. This second website bears the same logo as depicted above save that, instead of “RecycleIT” the strapline stated “RecyclifyIT”.

On December 17, 2025, Mr Beenish Aamir applied to register Australian Trade Mark Application No. 2610591. So far as can be ascertained from the details currently available, this trade mark application is for “Fabuleless, Recyclify IT, Recyclofy ITAD”. The application is for data cleaning services in International Class 35 and recycling of electronic devices and recycling in International Class 40. Mr Quereshi is identified as the address for service. Both he and Mr Beenish Aamir have the same address in Western Australia.

The application has been accepted but is awaiting publication.<sup>1</sup>

At the time this Decision is being prepared, neither disputed domain name resolves to any website.

On February 26, 2026 and March 4, 2026, the Respondents emailed the Center informing it that the Complainant had registered the domain name <fabulesrecycleit.au>. This domain name resolves to what appears to be a replica of the Complainant's website and features prominently at the top the Complainant's registered trade mark.

## 5. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to divest the Respondent of a disputed domain name, the Complainant must demonstrate each of the following:

- (i) the disputed domain name is identical or confusingly similar to a name, trade mark 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 or subsequently used in bad faith.

Paragraph 15(a) of the Rules directs the Panel to decide the 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 the Panel deems applicable.

### A. Consolidation

The Complaint names two different domain names with the individual registrants "Mohammad Qureshi" and "QURESHI, MOHAMMAD AAMIR". Paragraph 3(c) of the Rules expressly permits a complaint to relate to more than one domain name where all the domain names are registered by the same domain name holder. Notwithstanding this express provision, panels have frequently held that the Panel's powers under paragraph 10(e) of the Rules may permit consolidation of multiple domain name disputes, subject to satisfaction of the other requirements of Policy and Rules. In particular, paragraph 10(b) of the Rules requires the Panel to ensure that all parties are treated equally and each is given a fair opportunity to present his, her or its case.

In accordance with those requirements, panels have typically allowed joinder against multiple respondents who have registered different domain names where, amongst other things, the domain names in question, or the websites to which they resolve, appear to be under common control and consolidation would be fair and equitable to all parties. The onus of establishing that these requirements have been met falls on the party seeking consolidation. See WIPO Overview of WIPO Panel Views on Select UDRP Questions ("[WIPO Overview 3.1](#)"),<sup>2</sup> section 4.11.

In the present case, the Complainant relies on the same trade mark rights against both disputed domain names.

Further, the figurative mark used in connection with the first disputed domain name (before the Complainant's cease and desist letter) and in connection with the second disputed domain name were almost identical.

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<sup>1</sup> The Panel understands publication of acceptance will not take place until expiry of the six month priority period under the Paris Convention for the Protection of Industrial Property.

<sup>2</sup> The Panel, noting the similarities between the Policy and the Uniform Domain Name Dispute Resolution Policy (the "UDRP"), has referred to the [WIPO Overview 3.1](#), where appropriate.

In the email correspondence between the parties before the Complaint was issued, Mr Beenish Aamir identified himself as the Business Development Manager of “Fabuless Recycle IT” – the business with which the first disputed domain name (registered in Mr Quereshi’s name) was being used. After the communications in October 2025, when Mr Beenish Aamir indicated he had decided “to cease and desist my company, Fabuless Recycle IT”, he subsequently corresponded as the Business Development Manager of Fabuless Recyclify IT, giving the same physical address he previously used for Fabuless Recycle IT.

When the Complaint was notified to the second Respondent (using the coordinates confirmed as correct by the Registrar of the first disputed domain name), Mr Qureshi responded on December 17, 2025 at 04:39 to request an extension of time. Four minutes later an identically word request was received by the Center from Mr Beenish Aamir in relation to the second disputed domain name. While Mr Beenish Aamir signed off the email under that name as Business Development Manager of Fabuless Recyclify IT, his email account used the name Aamir Qureshi.

The Registrar for the second disputed domain name confirmed that a Mr Mohammed Qureshi is the registrant, administrative, technical and billing contact for the second disputed domain name.

As already noted, both Mr Qureshi and Mr Beenish Aamir are associated with the trade mark application relied on by the Respondents and give the same address details.

While the precise relationship between Mr Beenish Aamir and Mr Quereshi (whose middle name appears to be Aamir) is unclear, in these circumstances the Panel can confidently conclude that both disputed domain names are under common control.

Accordingly, it is appropriate for both disputes to be joined in the one complaint.

## **B. The domain name <fabulessrecycleit.au>**

As noted above, the Respondents have drawn attention to the fact that the Complainant is using the domain name <fabulessrecycleit.au> for a website which promotes the Complainant’s own services.

The Respondents contend that this may constitute misleading or deceptive conduct “by registering and potentially using a domain associated with my company.” The Respondents request that the domain name be suspended or blocked pending further investigation.

The Panel’s jurisdiction under the Policy is to determine a complaint made in accordance with the Policy against a particular domain name or domain names. As presently constituted, this administrative proceeding does not extend to the domain name raised by the Respondents. Further, the Panel’s powers are limited to ordering transfer or cancellation of a domain name if a Complaint is successful or, if unsuccessful, dismissing the Complaint: paragraph 4(i) of the Policy. The Panel’s powers do not extend to ordering suspension or blocking of a domain name pending further investigations.

The need for a formal Complaint is not just a matter of form. As outlined above, it is the basis of the Panel’s jurisdiction. Further, before a proceeding formally commences under the Policy, it is necessary to obtain Registrar verification of the holder of the domain name in question and their contact details to ensure that the holder of the domain name is put on notice of the dispute and has a fair opportunity to respond. Further still, the need to formulate a Complaint imposes a discipline on the prospective complainant to ensure that they properly address the matters that must be established under the Policy to give rise to the remedy of transfer or cancellation. A complainant who merely asserts that they have rights, without providing appropriate evidence, will not succeed and, as discussed below, they must advance sufficient evidence to support a prima facie case that the prospective respondent has no rights or legitimate interests in the domain name the subject of the dispute and, further, has registered or is using it in bad faith.

As the Respondents have not submitted a formal Complaint and the requirements set out above have not been addressed in the very limited materials before the Panel, the Panel does not have jurisdiction either to suspend or block the domain name “pending further investigation” or determine a prospective dispute.

### **C. Identical or Confusingly Similar**

The first element that the Complainant must establish is that each disputed domain name is identical with, or confusingly similar to, the Complainant’s name, trade mark or service mark.

In this case, the Complainant has proven ownership of the Australian registered trade mark for RECYCLE IT COMPUTER SERVER HARDWARE RECYCLING SECURE DATA DESTRUCTION as a figurative mark.

In comparing the disputed domain names to this trade mark, all that is required is simply a visual and aural comparison and assessment of the disputed domain name itself to the Complainant’s trade marks: see for example, *GlobalCenter Pty Ltd v. Global Domain Hosting Pty Ltd.*, WIPO Case No. [DAU2002-0001](#). This test is narrower than and thus different to the question of “likelihood of confusion” under trade mark law which can require an assessment of the nature of the goods or services protected and those for which any impugned use is involved, geographical location or timing. Such matters, if relevant however, may fall for consideration under the other elements of the Policy.

In addition, the complaint under the Policy is not directed at the Respondents’ logos, the question is whether the disputed domain names are identical with, or confusingly similar to, the Complainant’s trade mark.

Typically and as is appropriate in this case, it is permissible to disregard the country-code Top Level Domain (ccTLD), .au, and the Second Level Domain, .com, as functional components of the domain naming system. See for example auDA Overview of Panel Views on Selected auDRP Questions, Second Edition (“auDRP Overview 2.0”), section 1.11.

It is also usual to disregard the design elements of a trade mark under the first element as such elements are generally incapable of representation in a domain name. See for example, auDRP Overview 2.0, section 1.10. In the present case, the Complainant’s registered trade mark is “busy” and consists of a number of features. As can be seen above, however, the expression “RECYCLE IT” has considerable prominence. Although there are circumstances where “recycle it” could be seen as descriptive, it is appropriate to apply the usual rule in this case.

Disregarding “.com.au” ccTLD, therefore, the first disputed domain name consists of the dominant feature of the Complainant’s registered trade mark and the term “fabuless” as a prefix. As this requirement under the Policy is essentially a standing requirement, the addition of this term does not preclude a finding of confusing similarity. See e.g. auDA Overview 2.0, sections 1.7.4 and 1.7.6. Apart from anything else, the Complainant’s trademark remains visually and aurally recognisable within the first disputed domain name.

The second disputed domain name replaces the “recycleit” element with “recyclifyIT”. The two terms have a visual similarity and careful consideration is required to differentiate them. The two terms sound different. It is difficult to characterise the difference between the second disputed domain name and the Complainant’s trade mark as merely a case of “typosquatting” ( auDA Overview 2.0, section 1.9). Bearing in mind the primary role of this requirement under the Policy as a filter, however, it is clear that the Complainant has a genuine dispute with the Respondents and the issues raised by the descriptive connotations of the Complainant’s trade mark are better addressed on the second and third requirements.

Accordingly, the Panel finds that both disputed domain names are confusingly similar to the Complainant’s trade mark and the Complainant has established the first requirement under the Policy.

## D. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondents have no rights or legitimate interests in their respective disputed domain names.

Paragraph 4(c) of the Policy provides that the following circumstances may be situations in which a respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services (not being the offering of domain names that the respondent has acquired for the purpose of selling, renting or otherwise transferring); or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trade mark or service mark rights; or
- (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the name, trade mark or service mark at issue.

These are illustrative only and are not an exhaustive listing of the situations in which a respondent can show rights or legitimate interests in a domain name.

The onus of proving this requirement, like each element, falls on the Complainant. Previous panels have recognized the difficulties inherent in proving a negative, however, especially in circumstances where much of the relevant information is in, or likely to be in, the possession of the respondent. Accordingly, it is usually sufficient for a complainant to raise a prima facie case against the respondent under this head and an evidential burden will shift to the respondent to rebut that prima facie case. The ultimate burden of proof, however, remains with the Complainant. See e.g., *GlobalCenter Pty Ltd v. Global Domain Hosting Pty Ltd*, WIPO Case No. [DAU2002-0001](#); auDA Overview 2.0, section 2.1.1.

### First disputed domain name

In the present case, the first disputed domain name was registered before the Complainant applied to register its trade mark. It appears, however, the Complainant began using the name "Recycle IT Australia" since 2018. That is several years before the first disputed domain name was registered.

While the Complainant has not provided sufficient evidence to support its claim to have a well-known and valuable reputation (see auDA Overview 2.0, section 1.3), both the Complainant and the Respondents are based in Perth in Western Australia and engaged in the same specialist field. It would seem very unlikely, therefore, that the second Respondent was unaware of the Complainant when the first disputed domain name was registered.

The Complainant states that it has not authorised the Respondents to use the first disputed domain name. Nor are the Respondents affiliated with it.

The disputed domain name is not derived from the Respondents' formal names. In the Response, it is claimed:

"This domain does not infringe upon the claimant's trademark rights. The domain name is a composite of the words Fabuless, Recycle, and IT. Importantly, Fabuless is a registered trademark, and the term Recycle IT is not being used independently or in a manner that suggests affiliation, endorsement, or misrepresentation."

There is no evidence that either Respondent has a registered trade mark for FABULESS. The Panel's own review of the online database maintained by IP Australia does show two registrations for FABULESS, in the name of a Netherlands' (Kingdom of the) company for wholly unrelated products.

The Panel notes that Mr Beenish Aamir does have an accepted trade mark application, but it has not matured into a registration yet and, in any event does not include the expression "RECYCLE IT".

It is well-established under Australian case law that a domain name operates as a digital signpost and in that context constitutes trade mark use.<sup>3</sup>

Further, the term "Fabules" is likely to be seen, or at least sound, as a laudatory adjective, or superlative, alongside "recycleIT" rather than conferring an inherent capacity to distinguish.

Acknowledging once again that "recycle IT" has a descriptive connotation and is not the only feature of the Complainant's registered trade mark, the Panel considers there is a real risk that the public will identify the Complainant's trade mark by that prominent expression and so are at least likely to be caused to wonder whether the Respondents' business using the first disputed domain name is associated in some way with the Complainant and its trade mark.<sup>4</sup>

As it appears that there is at least direct overlap of the Complainant's and Respondents' businesses, therefore, the Panel finds on the balance of probabilities that the Respondents do not have rights or legitimate interests in the first disputed domain name.

### **Second disputed domain name**

The second disputed domain name is a different matter.

In this disputed domain name the expression "recyclifyIT" has replaced "recycleIT". Unlike "recycle", "recyclify" is not an ordinary dictionary term. It sounds different. The replacement of "le" with "lify" cannot really be described as a typosquatting transposition. Moreover, it should be borne in mind that the Complainant does not have a registered trade mark for "RECYCLE IT" as a plain word mark. That is perhaps understandable as it has a heavy descriptive character. In such circumstances, a court can be expected to require a very close degree of resemblance before finding an infringement of the Complainant's registered trade mark.<sup>5</sup>

Taking all these matters together, the Panel finds that the Complainant has not established that the first Respondent has no rights or legitimate interests in the second disputed domain name.

### **E. Registered or Subsequently Used in Bad Faith**

Under the third requirement of the Policy, the Complainant must establish that the disputed domain names have been either registered or subsequently used in bad faith by the Respondent. In contrast to the UDRP, the requirements of registration or use are disjunctive. It is necessary for the Complainant to establish only one or the other.

In view of the Complainant's failure to establish the first Respondent does not have rights or legitimate interests in the second disputed domain name, this issue does not arise in respect of that disputed domain name.

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<sup>3</sup> For example, *Solahart Industries Pty Ltd v Solar Shop Pty Ltd* [2011] FCA 700; 281 ALR 544 at [50] (Perram J).

<sup>4</sup> *De Cordova v Vick Chemical Co* (1951) RPC 103 at 106 and *Shell Company of Australia Ltd v Esso Standard Oil (Australia) Ltd* [1963] HCA 66; 109 CLR 407 at [13].

<sup>5</sup> *The Agency Group Australia Ltd v H.A.S. Real Estate Pty Ltd* [2023] FCAFC 203. The same position is likely to apply assuming the Complainant has common law rights in "Recycle IT Australia": *Office Cleaning Services Ltd. v. Westminster Window and General Cleaners Ltd* (1946) 63 RPC 39, at 42.

The position is different with respect to the first disputed domain name. When challenged, Mr Beenish Aamir represented that use of that disputed domain name had ceased. In particular, on October 20, 2025, Mr Beenish Aamir stated in his email to the Complainant:

“1. **Domain Name** The domain name *fabulesrecycleit.com.au* will not be transferred. The associated website and domain have already been decommissioned and are no longer in use. Upon expiry, you may pursue registration of the domain name through the standard public process in accordance with auDA regulations.

“2. **Website, Branding, and Social Media** All online materials, including any website content or branding referencing “Fabuleless Recycle IT” or “Recycle IT,” have been permanently removed. There are no active social media accounts or marketing materials in existence under that name.”

The Panel recognizes that those representations were made without admission of liability.

Nonetheless, they were made to induce the Complainant to cease pursuing the matter further and appear to have been accepted in that sense.

The Respondents’ subsequent conduct in redirecting the first disputed domain name to the website at “*www.fabulesrecyclifyit.com.au*” appears to be a clear breach of that representation and cannot be characterised as conduct in good faith.<sup>6</sup> The Panel finds that constitutes at the least subsequent use of the disputed domain name in bad faith for the purposes of this requirement under the Policy.

Accordingly, the Complainant has established all three requirements under the Policy in respect of the first disputed domain name only.

## F. Remedy

The Complainant has requested transfer of the disputed domain names. For the reasons outlined above, the Panel has found that the Complaint has succeeded in respect of the first disputed domain name, but not the second.

Ordinarily, an order to transfer the first disputed domain name would follow from such a finding: auDA Overview 2.0, section 5.3. In the present case, such an order gives rise to the potential complication that the Complainant may seek to use the disputed domain name to promote its own services. The conduct referred to in Section 5B above indicates this is more than a hypothetical possibility.

The Complainant, however, has demonstrated no rights to use the term “Fabuleless” which, even bearing in mind it sounds like the superlative “fabulous”, is a term which the Respondents have been using. The Complainant’s use therefore has the potential to give rise to claims of misleading or deceptive conduct contrary to section 18 of the Australian Consumer Law, as the Respondents have foreshadowed. If the Respondents are able to sustain that claim, transfer of the disputed domain name would be equipping the Complainant with an instrument of fraud.<sup>7</sup>

On the other hand, merely ordering cancellation would lead to the disputed domain name becoming available for registration again. There would be nothing to stop the Respondents, or any other person, from registering the disputed domain name again. That would render the time and expense incurred by the Complainant in this proceeding nugatory. Of course, the Complainant could also seek to register the disputed domain name itself to forestall such an eventuality. However, that would expose the Complainant to a race to register and is fraught with risk.

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<sup>6</sup>. See e.g. in a trade mark context, *In Re Parkington & Co Ltd's Application* (1946) 63 RPC 171.

<sup>7</sup>. *British Telecommunications plc v One in a Million Ltd* (1998) 42 IPR 289; [1998] 4 All ER 476.

A similar issue arises from time to time under the UDRP where the subject domain name consists of the complainant's trade mark and a third party trade mark.<sup>8</sup> In some decisions, panels ordered cancellation unless the complainant provided consent to the transfer from the third party trade mark owner. Subsequently, the trend seems to have been more in favour of ordering transfer whether or not consent had been obtained. For example in *Kabbage, Inc. v. Oneandone Private Registration, 1&1 Internet Inc. - www.1and1.com / Robert Hanssen, Ridiculous File Sharing* WIPO Case No. [D2015-1507](#), the panel explained:

"The Panel also observes that while authority is divided, there is a growing trend among UDRP panels to support transfer in the absence of third-party right holder consent. A few of the more recent decisions also grant transfer in circumstances that the Panel finds analogous to this proceeding. Eg., *Guccio Gucci S.p.A. v. Brenda Hawkins*, WIPO Case No. [D2013-0603](#) (granting transfer of domain names <gucciipadcase.net> and <gucciipadcases.com>, panel noted that the complainant marketed cases designed for Apple's iPad product); *Decathlon SAS v. Nadia Michalski*, WIPO Case No. [D2014-1996](#) (<decathlon-nike.com> domain name combining marks of sports apparel and third-party retail outlet).

"This Panel recognizes that to the extent practicable, the Policy should be interpreted in a consistent manner. The Panel also believes that the remedy of cancellation, for sound reasons, is disfavored by UDRP panels and should be avoided when possible. Particularly where Complainant has fulfilled all the elements of Policy paragraph 4(a), expressed a strong preference for transfer over cancellation, and demonstrated to the satisfaction of the Panel that it is cognizant of its obligations to respect the rights of third-party trademark holders, the Panel is willing to reach a result different from that embraced in the Panel's decision three years ago in *Incase Designs Corp. v. Rogenie LLC, Rogenie Cordero*, supra."

That case is not on all fours with the present situation as the Complainant has not indicated a willingness to respect its obligations with respect to other parties' rights but has instead chosen to embark on its own provocative form of self-help.

On balance, the Panel considers an order for transfer is more appropriate. The Complainant has established its case in respect of the first disputed domain name and, for the reasons discussed above, mere cancellation has a high risk of depriving it of the benefit of that vindication. Accepting that an order for transfer potentially exposes the Respondents to the need to take steps to protect their rights in "Fabules"-formative marks, if any, as it is the Respondents' conduct that has been in breach of the Policy (on the Panel's findings) the burden should fall on them where neither of the alternative remedies is without shortcomings. The order to transfer, being prophylactic, does not of course confer on the Complainant any rights to use the disputed domain name in contravention of another person's rights.

## 6. Decision

For all the foregoing reasons:

1. in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <fabulesrecycleit.com.au> be transferred to the Complainant; and
2. the Complaint is denied in respect of the disputed domain name <fabulesrecyclifyit.com.au>.

/Warwick A. Rothnie/

**Warwick A. Rothnie**

Sole Panelist

Date: March 2, 2026

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<sup>8</sup>. In this respect the issues which arise under the Policy and UDRP are the same, or at least analogous.