

ADMINISTRATIVE PANEL DECISION

Hostfully, Inc. v. The Trustee for The Garbers Family Trust
Case No. DAU2026-0005

1. The Parties

The Complainant is Hostfully, Inc., United States of America (“United States”), represented by Bradley Arant Boult Cummings LLP, United States.

The Respondent is The Trustee for The Garbers Family Trust, Australia.

2. The Domain Name and Registrar

The disputed domain name <hostfully.com.au> is registered with Cheaper Domains Pty Ltd.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 27, 2026. On January 28, 2026, the Center transmitted by email to Cheaper Domains Pty Ltd a request for registrar verification in connection with the disputed domain name. On January 30, 2026, and February 20, 2026, Cheaper Domains Pty Ltd transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the .au Dispute Resolution Policy (the “Policy” or “.auDRP”), 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 Respondent of the Complaint, and the proceedings commenced on February 24, 2026. In accordance with the Rules, paragraph 5(a), the due date for Response was March 16, 2026. The Respondent sent an email communication to the Center on March 13, 2026. The Center informed the Parties it would proceed to panel appointment on March 20, 2026.

The Center appointed Warwick A. Rothnie as the sole panelist in this matter on April 2, 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.

On April 21, 2026, the Panel issued Administrative Panel Procedural Order Number 1 pursuant to its powers under paragraph 12 of the Rules as the basis for the Complainant's claim to have been using its trade mark in Australia was unclear.

On April 28, 2026, the Complainant filed a supplementary filing in response to the Administrative Panel Procedural Order. Although provision was made for the Respondent to file a reply addressing that supplementary filing, no further material was received from the Respondent.

4. Factual Background

The Complainant is a provider of technology and services for property management. Through use of its software and services, its customers have the ability, amongst other things, to accept rental bookings and direct payments as well as manage finance, guest communications, and rental agreements. Amongst other things, it provides these services from its SaaS platform accessed through the website "www.hostfully.com".

The Complainant is incorporated in the United States. According to the Complaint, the Complainant has been providing its services under the name and trade mark HOSTFULLY since 2015. According to the Complaint, however, its services are used by over 40,000 property managers in more than 90 countries, managing over 62,000 properties. In the Complaint, the Complainant stated it has been providing its services in Australia since 2016.

The Complainant has received a number of awards and industry nominations for its services. These include: the Shortyz Awards for Best Property Management System in 2022 and Pioneer in 2023, the Featured Customers Rising Star Award in 2022, Skift's 2024 Short-Term Rental Shortlist for Property Management Solution and Best Digital Product. It was also included in Capterra's 2024 Shortlist for Hospitality Property Management.

The Complainant has provided evidence that it holds registered trade marks for HOSTFULLY in:

- (1) the United States, Registered Trade Mark No 7,631,730, which has been registered in the Principal Register since December 31, 2024, in respect of downloadable software for property management and related services in International Class 9 and software as a service (SaaS) service for property management and related services in International Class 42. The registration claims first use in commerce on October 15, 2015;
- (2) International Registration No 1858473, which was registered on April 28, 2025, with respect to the same goods and services and which designated Australia, Canada, China, the European Union, the United Kingdom, and Mexico; and
- (3) Australia, Registered Trade Mark No 2553889, which has been registered for the same goods and services with effect from its filing date on April 28, 2025.

The Complainant has also registered in the Principal Register on September 16, 2025, United States Registered Trademark No 7,952,004, in respect of the same goods and services the following trade mark:



According to the Complaint, this trade mark was first used as a standalone trade mark in commerce in 2019.

In its supplemental filing, the Complainant has provided evidence of a review being placed by an Australian customer on the Australian website at <getapp.com.au> on July 10, 2019. Since then, there have been 235 reviews posted. The supplemental filing also includes a spreadsheet showing that the Complainant had garnered 47 property managers between 2017 and 2020 from businesses in Australia as diverse as Sydney in New South Wales to Perth in Western Australia and Apollo Bay in Victoria to the Gold Coast in Queensland.

The Complainant's website features the "logo":



auDA has confirmed that the disputed domain name was registered on June 25, 2021.

On August 25, 2021, B Foster and M.C Reitsema, applied to register Australian Trade Mark No 2205172, HOSTFULLY, in respect of accommodation rental agency services, accommodation reservation services and associated services in International Class 43. This trade mark was formally registered on April 4, 2022.

The address of the owners of Australian Registered trade mark No 2205172 is the same as the address of the Respondent. The email received from the email address which the Registrar confirmed as the Technical, Administrative, and Billing contact details for the disputed domain name also described the sender's business as the owner of the registered trade mark.¹

The disputed domain name has resolved to a website offering "A better hosting and short-term rental management service ..." for investment property and holiday home owners on the mid-north coast of New South Wales. In January 2026, the landing page of the website featured prominently the "logo":



On April 29, 2025, the Complainant's representatives sent a cease and desist letter to an email address thought to be associated with the operator of the website.

The Respondent's email in response to the Complaint stated:

"Despite having an Australian trade mark for the name dated 4 years earlier than the complainant's trademark, I have shut down the website, ceased using the name for my business and applied with my domain name provider to terminate the name from my ownership.

"Please note. I never received the original 'cease and desist' request sent in April last year. The first I heard about it was when you sent the attachment last week. Nor have I received anything 'via courier' at any stage. However, as you can see from my comments above I am more than happy to co-operate."

¹The precise relationship between the Respondent and the owners of the registered trade mark is not clear, the common surnames and address and what the Panel takes to be the claim of ownership of the trade mark by the Respondent's business indicate at least a close relationship or common control. The Panel also notes that carrying on a business through a family trust is a common arrangement as is the holding of the business' assets in the name of a trustee. In these circumstances, for simplicity, the Panel will refer to the registered trade mark as the Respondent's trade mark.

At the time this decision is being prepared, the disputed domain name no longer resolves to an active website.

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 trademark or service mark in which the Complainant has rights;
- (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.

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 it deems applicable.

As the Complainant's supplemental filing is responsive to Administrative Panel Procedural Order No. 1 issued pursuant to paragraph 12 of the Rules and the Respondent has been given a reasonable opportunity to respond, it is admitted into the record.

A. Identical or Confusingly Similar

The first element that the Complainant must establish is that the 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 registered trade marks for HOSTFULLY.

In comparing the disputed domain name 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.

Typically, and as is appropriate in this case, it is permissible to disregard the top level suffix ".com.au" as a functional component 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 and, for example, *Clarins v Netlocal Consulting Pty Ltd*, WIPO Case No. [DAU2023-0016](#).

Disregarding the ".com.au" top level suffix, the disputed domain name consists of the Complainant's registered trade mark. Accordingly, the Panel finds that the disputed domain name is identical to the Complainant's trade mark and the Complainant has established the first requirement under the Policy.

B. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

It is not in dispute between the Parties that the Respondent is not authorised by the Complainant to use the Complainant's trade mark or otherwise affiliated with the Complainant.

The disputed domain name is not derived from the Respondent's name.

Apart from the top level suffixes, the disputed domain name is identical to the Respondent's registered trade mark. The trade mark was registered shortly after the disputed domain name was itself registered. The trade mark was also registered with effect almost four years before the Complainant's trade mark was registered in Australia – and about three and a half years before the Complainant registered its trade mark in the United States.

These circumstances would normally give rise to a claim to rights or legitimate interests in the disputed domain name, but not necessarily so. Whether it does, or does not, usually turns on whether the trade mark was registered in good faith. auDA Overview 2.0, section 2.12.1.

The Complainant claims that the Respondent registered the disputed domain name and the Respondent's trade mark with knowledge of the Complainant's trade mark.

The Respondent has not admitted knowledge of the Complainant or the Complainant's trade mark although the Respondent declared his desire to surrender the disputed domain name and shut down the website on receipt of the Complaint. The Panel accepts there can be many reasons why a person may wish to resolve a dispute without contesting the merits.

That said, while the disputed domain name and the Respondent's trade mark were registered before the Complainant registered its trade mark in either the United States or Australia, the disputed domain name and the Respondent's trade mark were both registered many years after the Complainant started using its name and trade mark. The disputed domain name and the Respondent's trade mark were also registered many years after the Complainant began using its trade mark in Australia.

Although the number of customers gained by the Complainant in Australia before the disputed domain name was registered is not large, the Complainant would appear to have been developing a significant reputation by then as evidenced, for example, by the garnering of international awards in 2022.

Further, the Complainant's trade mark is not directly descriptive of the relevant goods or services. It is not an ordinary or common dictionary word. Rather, it is cleverly allusive. The Respondent has not offered any explanation for how the disputed domain name was derived.

Further still, if the Respondent's service is not the same as the Complainant's, the two types of business are very close. Like the Complainant's business, the Respondent's business also appears to have involved a substantial online element. Given the developing international reputation of the Complainant and its trade mark, it would be very surprising if someone such as the Respondent entering the field to begin operating online in 2021 had not come across the Complainant and its trade mark.

Yet still further, while the Respondent has not admitted knowledge of the Complainant's trade mark, nor has the Respondent denied it.

In addition, under Australian law, the person entitled to own a registered trade mark in Australia is the person (or persons) who first uses the trade mark in respect of the relevant goods or services or for the same kind of thing. If the trade mark has not been used, however, the person entitled to it is generally the first to apply to register it.²

These circumstances combined with the Respondent's willingness to surrender the disputed domain name and shut down the website lead the Panel to find that the Respondent does not have rights or legitimate interests in the disputed domain name for the purposes of the Policy, notwithstanding the Respondent's registered trade mark.

²See for example the summary in *Hemmes Trading Pty Limited v Establishment 203 Pty Ltd* [2024] FCA 1100; 179 IPR 315 at [28] (Jackman J).

Accordingly, the Panel finds the Complainant has established the second requirement under the Policy also.

C. Registered or Subsequently Used in Bad Faith

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

In this case, the reasons leading to the finding that the Respondent does not have rights or legitimate interests in the disputed domain name also lead to the conclusion that the disputed domain name was at least registered in bad faith.

Accordingly, the Complainant has established all three requirements under the Policy.

6. Decision

For all 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, <hostfully.com.au>, be transferred to the Complainant.

/Warwick A. Rothnie/

Warwick A. Rothnie

Sole Panelist

Date: May 16, 2026