

ADMINISTRATIVE PANEL DECISION

Retail Employees Superannuation Pty. Limited v. The Trustee for Rest Superfund and Name Redacted
Case No. DAU2026-0022

1. The Parties

The Complainant is Retail Employees Superannuation Pty. Limited, Australia, represented by Gilbert & Tobin Lawyers, Australia.

The Respondents are The Trustee for Rest Superfund, Australia, and Name Redacted¹.

2. The Domain Names and Registrars

The disputed domain name <restsuperannuationfund.com.au> is registered with GoDaddy.com, LLC. The disputed domain name <restsuperfund.com.au> is registered with Web Address Registration Pty Ltd (the "Registrars").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on August 13, 2026. On August 13, 2026, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On August 18 and 25, 2026, the Registrars transmitted by email to the Center their verification responses confirming that the Respondents are listed as the registrants 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").

¹ The Respondent for <restsuperfund.com.au> appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted this Respondent's name from this Decision. However, the Panel has attached as Annex 1 to this Decision an instruction to the Registrar regarding transfer of the disputed domain names, which includes the name of the concerned Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding and has indicated Annex 1 to this Decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

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 August 28, 2026. In accordance with the Rules, paragraph 5(a), the due date for Response was September 17, 2026. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on September 21, 2026.

The Center appointed Warwick A. Rothnie as the sole panelist in this matter on September 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

According to the Complaint, the Complainant is the fourth-largest superannuation fund in Australia (by number of members).

The Complainant was incorporated in 1980 and began operations in 1988. As at June 30, 2026, it had some 2 million members and around AUD 112 billion in funds under management. Throughout that period, it has operated under the trade mark REST and REST-formative trade marks such as REST SUPER and REST PENSION. It also uses a figurative version, most recently in the following form:



The Complainant promotes and provides its services via a website at "www.rest.com.au", the domain name for which has been registered since 2000. In promoting its services under the REST trade mark, the Complainant has spent:

- around AUD 17.3 million in advertising and promotion in the financial year ending on 30 June 2023;
- around AUD 14.5 million in advertising and promotion in the financial year ending on 30 June 2024;
- around AUD 23.6 million in advertising and promotion in the financial year ending on 30 June 2025.

According to market research by Kantar, the Complainant has had the second highest level of unprompted brand recognition amongst superannuation funds in Australia in 29 of the last 30 months.

The Complainant has a number of registered trade marks in Australia including:

- (1) Australian Registered trade mark No. 741590, REST, which was registered with effect from August 15, 1997 in respect of superannuation, investment and investment management services in International Class 36;
- (2) Australian Registered trade mark No. 1363789, for the figurative mark shown below, which was registered with effect from May 27, 2010 in respect of the same range of services in International Class 36 k:



- (3) Australian Registered trade mark No. 1904756, REST, which was registered with effect from February 5, 2018 in respect of a wide range of goods and services in International Classes 9, 35, 36, 41 and 42.

According to the Whois reports,

- (a) the disputed domain name <restsuperfund.com.au> was registered on June 8, 2024; and
- (b) the disputed domain name <restsuperannuationfund.com.au> was registered on June 25, 2026.

According to the Complaint, the <restsuperfund.com.au> disputed domain name has not resolved to an active website. The <restsuperannuationfund.com.au> disputed domain name redirects to the Complainant's website at "www.rest.com.au". When the Panel attempted to verify this, the browser generated a warning:

"Deceptive Website Warning

"This website may try to trick you into doing something dangerous, like installing software or disclosing personal or financial information, like passwords, phone numbers, or credit cards."

5. Discussion and Findings

No response has been filed. The Complaint and Written Notice have been sent, however, to the Respondents at the electronic and physical coordinates confirmed as correct by the Registrars in accordance with paragraph 2(a) of the Rules. Bearing in mind the duty of the holder of a domain name to provide and keep up to date correct Whois details, therefore, the Panel finds that the Respondents have been given a fair opportunity to present their or its cases.

When a respondent has defaulted, paragraph 14(a) of the Rules requires the Panel to proceed to a decision on the Complaint in the absence of exceptional circumstances. Accordingly, paragraph 15(a) of the Rules requires the Panel to decide the dispute on the basis of the statements and documents that have been submitted and any rules and principles of law deemed applicable.

Paragraph 4(a) of the Policy provides that in order to divest a 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 is being used in bad faith.

A. Consolidation

According to the verification responses from the Registrars, the two disputed domain names are formally registered in the name of different persons.

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 auDA Overview of Panel Views on Selected auDRP Questions Second Edition (“auDRP Overview 2.0”), section 4.11.

On July 24 and August 11, 2026, the .au Whois provided by auDA showed that the tech contact for the disputed domain names was the same individual, using the same email address. The registrant of the disputed domain name <restsuperannuationfund.com.au> was shown as “The Trustee for REST SUPERFUND” ABN 89 542 678 943².

For the disputed domain name <restsuperfund.com.au>, the .au Whois on July 24, 2026 showed the registrant contact as a different individual, who was using the same email as the tech contact mentioned above, and this disputed domain name also shared the same tech contact as the other disputed domain name. The registrant was recorded as The Trustee for RETAIL EMPLOYEES SUPERANNUATION TRUST ABN 62 653 671 394. On August 11, 2026, however, the registrant and tech contacts had changed and the registrant itself changed to Retail Employees Superannuation Pty Limited (ABN 39 001 987 739) as Trustee for RETAIL EMPLOYEES SUPERANNUATION TRUST. The ABN for the Trust remained the same. The email addresses also changed to one purporting to be the hostmaster of the Complainant’s website.

According to the Complaint, the change of registrant was an updating required by auDA due to some non-compliance with the licensing rules.

Although the <restsuperannuationfund.com.au> disputed domain name redirects to the Complainant’s websites and ABN 39 001 987 739 and ABN 62 653 671 394 are both ABNs associated with the Complainant, the Complainant states that it did not register, or authorise the registration of, either disputed domain name and does not have any ability to access or control them.

The Panel notes each of the disputed domain names adopts the same or closely similar structure – “rest” + “super/superannuation” + “fund” as well as the Second Level Domain, “.com.au”. These elements also closely resemble the Complainant’s registered trade marks and trading names. Further, each disputed domain name purports to have an association with the Complainant. The disputed domain name <restsuperannuationfund.com.au> by redirecting to the Complainant’s website; the <restsuperfund.com.au> disputed domain name by using the ABNs associated with the Complainant. Further still, until at least July 24, 2026, the same tech contact and email address were involved for both disputed domain names.

In these circumstances, the Panel considers it appropriate to order consolidation of the two disputed domain names in the one Complaint. The issues raised by each are the same or substantially the same. There does not appear to be any obvious prejudice to one Respondent through joinder in a Complaint against the other (if there is more than one person involved) and neither has come forward to claim any prejudice or to dispute the Complainant’s contention that they are operating under the same control.

Unless it becomes necessary to distinguish between them, the Panel will refer to “the Respondent” for ease of reference.

B. Identical or Confusingly Similar

The first element that the Complainant must establish is that a 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 REST.

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 names themselves to the Complainant’s trade mark:

² An ABN is an Australian Business Number which a person carrying on a business or enterprise must obtain by registration to enable the business or enterprise to be uniquely identified.

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 country code Top Level Domain (ccTLD) and the Second Level extension, “.com.au”, in both disputed domain names as a functional component of the domain naming system. See for example, auDRP Overview 2.0, section 1.11.

Disregarding the “.com.au” extension, each disputed domain name consists of the Complainant’s registered trade mark and the term “superfund” or “superannuationfund”. As this requirement under the Policy is essentially a standing requirement, the addition of either of these terms does not preclude a finding of confusing similarity. See e.g. auDRP Overview 2.0, sections 1.7.4 and 1.7.6. Apart from anything else, the Complainant’s trade mark remains visually and aurally recognisable within each disputed domain name. Although it is not strictly necessary, the Panel notes that “super” is a common abbreviation in Australian usage for “superannuation” or “superannuation fund” and all three terms are descriptive of the nature of the Complainant’s business.

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 for each disputed domain name.

C. Rights or Legitimate Interests

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

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 [the Respondent] of the dispute, [the Respondent’s] 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) [the Respondent] (as an individual, business, or other organization) [has] been commonly known by the domain name, even if [the Respondent has] acquired no trade mark or service mark rights; or
- (iii) [the Respondent is] making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the 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](#); auDRP Overview 2.0, section 2.1.1.

In the present case, the Respondent registered the disputed domain names many years after the Complainant began using its trade mark and also after the trade mark was registered.

The Complainant states that it has not authorised the Respondent to use either disputed domain name. Nor is the Respondent affiliated with the Complainant.

The disputed domain name is not derived from the name of any individual identified as a contact (registrant or tech) for either disputed domain name. On its face, each disputed domain name could be derived from the name of the registrant. As already indicated, however, the disputed domain name <restsuperfund.com.au> purports falsely to have been registered by the Complainant and there is evidence that at least one of the individuals and email addresses involved in that disputed domain name are also associated with the disputed domain name <restsuperannuationfund.com.au>. Neither the Respondent nor any other person who is the registrant of either disputed domain name has come forward to explain the basis for their adoption of those names or otherwise to justify doing so. In these circumstances, the Panel considers that these are not names adopted in good faith and cannot be used as a basis to provide rights or legitimate interests in either disputed domain name. The Panel further notes that the composition of both disputed domain names directly relates to the Complainant's services and thus suggests an affiliation with the Complainant where none exists. auDRP Overview 2.0, section 2.5.

These matters, taken together, are sufficient to establish a prima facie case under the Policy that the Respondent has no rights or legitimate interests in either disputed domain name. As the Respondent has not sought to rebut that prima facie case or advance any claimed entitlement, 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 names have 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.

Generally speaking, a finding that a domain name has been registered or is being used in bad faith requires an inference to be drawn that the respondent in question has registered or is using the disputed domain name to take advantage of its significance as a trade mark owned by (usually) the complainant.

In the present case, there can be no realistic doubt that the Respondent was well aware of the Complainant and its trade mark. Apart from anything else, the <restsuperannuationfund.com.au> disputed domain name redirects to the Complainant's website and the person (or persons) who registered the <restsuperfund.com.au> disputed domain name has used ABNs associated with the Complainant.

Notwithstanding that knowledge, the Respondent (or the person or persons behind the registration of each disputed domain name) registered both disputed domain names knowing that they did not have permission or a legitimate basis (or at least one that the Respondent has been prepared to advance) to register either disputed domain name. At the very least, therefore, the Panel finds that each disputed domain name has been registered in bad faith.

Accordingly, the Complainant has established all three requirements under the Policy in respect of both disputed domain names.

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 names, <restsuperannuationfund.com.au> and <restsuperfund.com.au>, be transferred to the Complainant.

/Warwick A. Rothnie/

Warwick A. Rothnie

Sole Panelist

Date: October 12, 2026