

ADMINISTRATIVE PANEL DECISION

Urban Outfitters Inc. v. Shuzhen Chen, Qibao Chen, Jinfeng Lu, Xuemei Zhang, zeng hong, Shen Shen Yan, Helen J Edwards
Case No. D2023-1431

1. The Parties

Complainant is Urban Outfitters Inc., United States of America (“USA”, “US” or “U.S.”), represented by SafeNames Ltd., United Kingdom.

Respondents are Shuzhen Chen, China, Qibao Chen, Hong Kong, China, Jinfeng Lu, China, Xuemei Zhang, China, zeng hong, China, Shen Shen Yan, China, Helen J Edwards, Canada.

2. The Domain Names and Registrars

The disputed domain names <bohofreepeople.com>, <free-peopled deals.com>, <free-peoplesale.com>, <freepeoplewear.com>, and <newfreepeople.com> are registered with Name.com, Inc. (the “Registrar”).

The disputed domain name <free-people.shop> is registered with NameSilo, LLC (the “Registrar”).

The disputed domain name <freepeopleus.xyz> is registered with GoDaddy.com, LLC (the “Registrar”).

The disputed domain name <gowefreepeople.com> is registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on April 3, 2023. On April 4, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On April 4, 2023, April 5, 2023 and April 6, 2023, the Registrars transmitted by email to the Center their verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Redacted et al.) and contact information in the Complaint. The Center sent an email communication to Complainant on April 10, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint or to file a separate Complaint for each of the disputed domain names. Complainant filed an amended Complaint in English on April 13, 2023.

On April 10, 2023, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On April 13, 2023, Complainant submitted a request that English be the language of the proceeding. Respondents did not comment on the language of the proceeding.

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 Respondents in English and Chinese of the Complaint, and the proceedings commenced on April 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 11, 2023. Respondents did not submit any response. Accordingly, the Center notified Respondents’ default on May 12, 2023.

The Center appointed Yijun Tian as the sole panelist in this matter on June 6, 2023. 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

A. Complainant

Complainant is Urban Outfitters Inc., incorporated in Philadelphia, the US. It is a multinational lifestyle retail corporation, which made net sales of USD 3.45 billion in Financial Year 2021 (see Annex 5 to the Complaint). Complainant is the parent of many subsidiary companies and relies on trademarks registered to these subsidiaries. Complainant’s Free People Group (consisting of both the FREE PEOPLE and FP MOVEMENT brands) as of January 31, 2021 operated 149 stores, located across the United States, Canada and Europe (Annex 5 to the Complaint).

Complainant is the owner of numerous FREE PEOPLE trademarks worldwide, including the U.S. Trademark registered on March 22, 1994 (the US Trademark registration number 1827547), and the International Trademark registered on March 14, 2008 (the International Trademark registration number 957751).

B. Respondents

Respondents are Shuzhen Chen, China, Qibao Chen, China, Jinfeng Lu, China, Xuemei Zhang, China, zeng hong, China, Shen Shen Yan, China, Helen J Edwards, Canada.

The disputed domain name <free-people.shop> is registered (with NameSilo, LLC) by Helen J Edwards, Canada, on September 18, 2022. The disputed domain name <freepeopleus.xyz> was registered (with GoDaddy.com, LLC) by Shen Shen Yan, China, on May 5, 2022. The disputed domain name <gowefreepeople.com> was registered (with Gname.com Pte. Ltd) by zeng hong, China, on September 30, 2022. The disputed domain names <bohofreepeople.com> and <freepeoplewear.com> were registered (with Name.com, Inc) by Qibao Chen, Hong Kong, China, on the same day (November 1, 2022). The disputed domain name <free-peopledeals.com> was registered (with Name.com, Inc) by Xuemei Zhang, China, on April 29, 2022. The disputed domain name <free-peoplesale.com> was registered (with Name.com, Inc) by Jinfeng Lu, China, on August 23, 2022. The disputed domain name <newfreepeople.com> was registered (with Name.com, Inc) by Shuzhen Chen, China, on May 10, 2022.

The disputed domain name <free-people.shop> currently resolves to the webpage showing “Welcome to nginx!”. The disputed domain names <bohofreepeople.com> and <newfreepeople.com> currently resolve to inactive websites. The disputed domain names <freepeopleus.xyz>, <gowefreepeople.com>, <free-peopledeals.com> and <free-peoplesale.com> currently resolve to substantially identical websites that prominently feature Complainant’s FREE PEOPLE trademarks and products.

But according to the information provided by Complainant, all eight disputed domain names, including three disputed domain names <newfreepeople.com> (webpage visited on November 4, 2022), <free-people.shop> (webpage visited on April 3, 2023) and <bohofreepeople.com> (webpage visited on November 9, 2022),

were resolved to substantially identical websites that prominently feature Complainant's FREE PEOPLE trademarks and products (Annex 13 to the Complaint). Complainant's name, image, and likeness, and information, photographs, and product listings taken directly from the authentic "www.freepeople.com/" website (Annex 8 to the Complaint).

5. Parties' Contentions

A. Complainant

Complainant contends that all the disputed domain names are confusingly similar with Complainant's FREE PEOPLE Marks. Each of the disputed domain names reproduces Complainant's FREE PEOPLE mark in full (some with and others without a hyphen in between "FREE" and "PEOPLE"). Complainant's FREE PEOPLE mark is in each instance either preceded or proceeded by other terms, and nearly all of these additions clearly relate to Complainant's offerings (e.g., "deals", "sale" and "wear"). Complainant requests that the Panel disregard the generic Top-Level Domains ("gTLDs") ".com", ".shop" and ".xyz" in the disputed domain names in respect of the first element, as these form a standard registration requirement.

Complainant contends that Respondents lack rights or legitimate interests in the disputed domain names.

Complainant contends that the disputed domain names were registered and are being used in bad faith.

Complainant requests that the disputed domain names be transferred to it.

B. Respondents

Respondents did not reply to Complainant's contentions.

6. Discussion and Findings

6.1. Consolidation of Multiple Respondents

The Panel notes that the present Complaint has been filed against multiple Respondents and Complainant has submitted a request for consolidation. On this subject, section 4.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") provides *inter alia* as follows:

"The WIPO Center may accept, on a preliminary basis, a consolidated complaint where the criteria described below are *prima facie* met. Any final determination on consolidation would be made by the appointed panel, which may apply its discretion in certain circumstances to order the separation of a filed complaint".

The Panel finds that Complainant has provided sufficient evidence to establish that the disputed domain names or corresponding websites are subject to common control, for the following reasons:

- (a) All eight disputed domain names have hosted similar websites featuring Complainant's well-known FREE PEOPLE mark on each page, with copied images and text from Complainant's website.
- (b) The eight disputed domain names were registered within a seven-month period, from April 29, 2022, to November 1, 2022, with five of them registered through the same Registrar.
- (c) The disputed domain names follow a similar naming pattern, incorporating Complainant's well-known FREE PEOPLE mark in their entirety.
- (d) Six out of seven Respondents are located in China.

- (e) The websites associated with the disputed domain names share similar appearances and structures. At the bottom of their homepages, they feature columns and links with similar names and arrangements, such as “Privacy Policy” and “Delivery”, and the connected pages are of a similar nature.
- (f) Some of the websites associated with the disputed domain names list identical or similar admin@ email addresses.
- (g) Certain websites associated with the disputed domain names share the same apparent contact information. For instance, <newfreepeople.com>, <free-peopledeals.com>, and <free-people.shop> list the address “2989 Todds Lane, San Antonio...” (see Annex 13 to the Complaint).
- (h) Most of the disclosed registrant details for the disputed domain names do not reflect real addresses. For example, there is no “4785 Park Ct” in Evansburg, Canada (<free-people.shop>), Nanchang is not in the province of Gansu but in Jiangxi (<free-peopledeals.com>), and there is no “350 Chung Pik Street” in Hong Kong, China (<bohofreepeople.com> and <freepeoplewear.com>).

In all of these circumstances, the Panel considers that it is procedurally efficient to allow Complainant to proceed with the single Complaint as filed and is satisfied that such consolidation is fair and equitable to all of the Parties. Accordingly, Respondents are hereinafter referred to as “Respondent”.

6.2. Language of the Proceeding

The language of the Registration Agreements for the disputed domain name <bohofreepeople.com>, <free-peopledeals.com>, <free-peoplesale.com>, <freepeoplewear.com>, <newfreepeople.com>, <free-people.shop>, and <freepeopleus.xyz> is English. The language of the Registration Agreements for the disputed domain name <gowefreepeople.com> is Chinese.

Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement. From the evidence presented on the record, no agreement appears to have been entered into between Complainant and Respondent to the effect that the language of the proceeding should be English. Complainant filed initially its Complaint in English, and has requested that English be the language of the proceeding for the following reasons:

- (a) The disputed domain names consist solely of Latin alphabet letters and include English words such as “new”, “deals”, “sale”, and “wear”.
- (b) The disputed domain names have all been resolved to websites with English-language content (Amended Annex 13 to the Complaint).
- (c) Respondent has used registrars, except for one disputed domain name (<gowefreepeople.com>), for which it has been confirmed that the registration agreement is in English.
- (d) Respondent has previously been involved in at least one domain name dispute where the panel, considering similar factors to those mentioned in this section, determined that the proceeding should be conducted in English (see *Strellson AG v. Qibao Chen*, WIPO Case No. [D2023-0347](#)).
- (e) Complainant and its representatives are based in the US and the United Kingdom (“UK”), respectively. Requiring a translation would result in additional expenses and unnecessary delays.
- (f) Respondent appears to understand English, and Complainant would be unduly disadvantaged by having to conduct the proceeding in Chinese.

Respondent did not make any submissions with respect to the language of the proceeding and did not object to the use of English as the language of the proceeding.

Paragraph 11(a) of the Rules allows the panel to determine the language of the proceeding having regard to all the circumstances. In particular, it is established practice to take paragraphs 10(b) and (c) of the Rules into consideration for the purpose of determining the language of the proceeding. In other words, it is important to ensure fairness to the parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes (*Whirlpool Corporation, Whirlpool Properties, Inc. v. Hui'erpu (HK) electrical appliance co. ltd.*, WIPO Case No. [D2008-0293](#); *Solvay S.A. v. Hyun-Jun Shin*, WIPO Case No. [D2006-0593](#)). The language finally decided by the panel for the proceeding should not be prejudicial to either one of the parties in its abilities to articulate the arguments for the case (*Groupe Auchan v. xmxzl*, WIPO Case No. [DCC2006-0004](#)). Section 4.5.1 of the [WIPO Overview 3.0](#) further states:

“Noting the aim of conducting the proceedings with due expedition, paragraph 10 of the UDRP Rules vests a panel with authority to conduct the proceedings in a manner it considers appropriate while also ensuring both that the parties are treated with equality, and that each party is given a fair opportunity to present its case.

Against this background, panels have found that certain scenarios may warrant proceeding in a language other than that of the registration agreement. Such scenarios include (i) evidence showing that the respondent can understand the language of the complaint, (ii) the language/script of the domain name particularly where the same as that of the complainant's mark, (iii) any content on the webpage under the disputed domain name, (iv) prior cases involving the respondent in a particular language, (v) prior correspondence between the parties, (vi) potential unfairness or unwarranted delay in ordering the complainant to translate the complaint, (vii) evidence of other respondent-controlled domain names registered, used, or corresponding to a particular language, (viii) in cases involving multiple domain names, the use of a particular language agreement for some (but not all) of the disputed domain names, (ix) currencies accepted on the webpage under the disputed domain name, or (x) other indicia tending to show that it would not be unfair to proceed in a language other than that of the registration agreement.” (See also *L'Oreal S.A. v. MUNHYUNJA*, WIPO Case No. [D2003-0585](#)).

On the record, Respondents, except Helen J Edwards, are located in China and are thus presumably not native English speakers. However, considering the following, the Panel has decided that English should be the language of the proceeding: (a) all the disputed domain names include Latin characters and English words, rather than Chinese scripts; (b) the websites at the disputed domain names all resolve to websites in English, rather than in Chinese; (c) the Center has notified Respondent of the proceeding in both Chinese and English; and (d) the Center informed the Parties, in English and Chinese, that it would accept a Response in either English or Chinese, but none was filed.

Accordingly, the Panel finds the choice of English as the language of the present proceeding is fair to both Parties and is not prejudicial to either one of the Parties in its ability to articulate the arguments for this case. Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that English shall be the language of the proceeding, and the decision will be rendered in English.

6.3. Substantive Issues

Paragraph 4(a) of the Policy requires that Complainant must prove each of the following three elements to obtain an order that the disputed domain names should be cancelled or transferred:

- (i) the disputed domain names registered by Respondent are identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

On the basis of the evidence introduced by Complainant and in particular with regard to the content of the relevant provisions of the Policy (paragraphs 4(a)-(c)), the Panel concludes as follows:

A. Identical or Confusingly Similar

The Panel finds that Complainant has rights in the FREE PEOPLE mark acquired through registration and use. The FREE PEOPLE marks have been registered in the US since 1994, and registered internationally since 2008.

The Panel finds that all disputed domain names <bohofreepeople.com>, <free-peopledeals.com>, <free-peoplesale.com>, <freepeoplewear.com>, <newfreepeople.com>, <free-people.shop>, <freepeopleus.xyz>, and <gowefreepeople.com> comprise the FREE PEOPLE mark in its entirety. They only differ from Complainant's trademark by "-" and/or the term "boho", "deals", "sale", "wear", "new", "us", or "go we" and the gTLD ".com", ".shop" or ".xyz". This does not compromise the recognizability of Complainant's mark within the disputed domain names, nor prevents a finding of confusing similarity between Complainant's registered trademark and the disputed domain names (*Decathlon v. Zheng Jianmeng*, WIPO Case No. [D2019-0234](#)).

Further, in relation to the gTLD suffix, [WIPO Overview 3.0](#) further states: "The applicable Top-Level Domain ('TLD') in a domain name (e.g., '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test." ([WIPO Overview 3.0](#), section 1.11.1.)

The Panel, therefore, holds that the Complaint fulfils the first condition of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances any of which is sufficient to demonstrate that Respondent has rights or legitimate interests in the disputed domain names:

- (j) before any notice to Respondent of the dispute, the use by Respondent of, or demonstrable preparations to use, the disputed domain names or a name corresponding to the disputed domain names in connection with a *bona fide* offering of goods or services; or
- (ii) Respondent has been commonly known by the disputed domain names, even if Respondent has acquired no trademark or service mark rights; or
- (iii) Respondent is making a legitimate noncommercial or fair use of the disputed domain names, without intent for commercial gain to misleadingly divert consumers or to tarnish Complainant's trademarks.

The overall burden of proof on this element rests with the complainant. However, it is well established by previous UDRP panel decisions that once a complainant establishes a *prima facie* case that a respondent lacks rights or legitimate interests in a domain name, the burden of production shifts to the respondent to rebut complainant's contentions. If the respondent fails to do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. (*Danzas Holding AG, DHL Operations B.V. v. Ma Shikai*, WIPO Case No. [D2008-0441](#); [WIPO Overview 3.0](#), section 2.1, and cases cited therein).

Complainant has rights in the FREE PEOPLE marks in the US since 1994 and internationally since 2008, which precede Respondent's registrations of all the disputed domain names (2022). According to the Complaint, Complainant is a multinational lifestyle retail corporation, which made net sales of USD 3.45 billion in Financial Year 2021. Complainant's Free People Group as of January 31, 2021 operated 149 stores, located across the US, Canada and Europe. Complainant's FREE PEOPLE branded products have been distributed widely.

Complainant asserts that it has not authorized Respondent to use its FREE PEOPLE marks, and Respondent is not a licensee of Complainant. Complainant has therefore established a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain names and thereby shifted the burden to

Respondent to produce evidence to rebut this presumption (*The Argento Wine Company Limited v. Argento Beijing Trading Company*, WIPO Case No. [D2009-0610](#); *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

Based on the following reasons the Panel finds that Respondent has no rights or legitimate interests in the disputed domain names:

- (a) There has been no evidence adduced to show that Respondent is using the disputed domain names in connection with a *bona fide* offering of goods or services. Respondent has not provided evidence of legitimate use of the disputed domain name or reasons to justify the choice of the term “free people” in the disputed domain names. There has been no evidence to show that Complainant has licensed or otherwise permitted Respondent to use the FREE PEOPLE marks or to apply for or use any domain names incorporating the FREE PEOPLE marks;
- (b) There has been no evidence adduced to show that Respondent has been commonly known by the disputed domain names. There has been no evidence adduced to show that Respondent has any registered trademark rights with respect to the disputed domain names. Respondent registered the disputed domain names in 2022, long after the FREE PEOPLE marks became internationally known. The disputed domain names are confusingly similar to Complainant’s FREE PEOPLE marks; and
- (c) There has been no evidence adduced to show that Respondent is making a legitimate noncommercial or fair use of the disputed domain names. By contrast, according to the information provided by Complainant, all disputed domain names were resolved to substantially identical websites that prominently feature Complainant’s FREE PEOPLE trademarks and products.

The Panel finds that Respondent has failed to produce any evidence to rebut Complainant’s *prima facie* case. The Panel, therefore, holds that the Complaint fulfils the second condition of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out four circumstances which, without limitation, shall be evidence of the registration and use of the disputed domain names in bad faith, namely:

- (i) circumstances indicating that Respondent has registered or acquired the disputed domain names primarily for the purpose of selling, renting, or otherwise transferring the domain name registrations to Complainant who is the owner of the trademark or service mark or to a competitor of Complainant, for valuable consideration in excess of Respondent’s documented out-of-pocket costs directly related to the disputed domain names; or
- (ii) Respondent has registered the disputed domain names in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) Respondent has registered the disputed domain names primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the disputed domain names, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s websites or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s websites or location or of a product or service on the websites or location.

The Panel concludes that the circumstances referred to in paragraph 4(b)(iv) of the Policy are applicable to

the present case and upon the evidence of these circumstances and other relevant circumstances, it is adequate to conclude that Respondent has registered and used the disputed domain names in bad faith.

(a) Registered in Bad Faith

The Panel finds that Complainant has a widespread reputation in the FREE PEOPLE marks with regard to its products or services. Complainant has registered its FREE PEOPLE marks in the US since 1994, and internationally since 2008. As introduced above, Complainant's Free People Group (consisting of both the FREE PEOPLE and FP MOVEMENT brands) as of January 31, 2021 operated 149 stores, and its FREE PEOPLE branded products have been distributed widely, such as in the US, Canada, and Europe. All the disputed domain names were registered in 2022 long after Complainant's trademark registrations in the US and internationally. It is not conceivable that Respondent would not have had actual notice of Complainant's trademark rights at the time of the registration of the disputed domain names.

Moreover, Respondent has chosen not to respond to Complainant's allegations. According to the UDRP decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company, supra*, "the failure of Respondent to respond to the Complaint further supports an inference of bad faith". See also *Bayerische Motoren Werke AG v. (This Domain is For Sale) Joshuathan Investments, Inc.*, WIPO Case No. [D2002-0787](#).

Thus, the Panel concludes that the disputed domain names were registered in bad faith.

(b) Used in Bad Faith

As introduced above, all disputed domain names were resolving to substantially identical websites that prominently feature Complainant's FREE PEOPLE trademarks and products. Thus, the Panel concludes that Respondent is using the confusingly similar disputed domain names with the intention to attract, for commercial gain, Internet users to Respondent's websites.

Given the reputation of the FREE PEOPLE marks, the Panel finds that the public is likely to be confused into thinking that the disputed domain names have a connection with Complainant, contrary to the fact. There is a strong likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the websites to which the disputed domain names resolve. In other words, Respondent has through the use of the confusingly similar disputed domain names created a likelihood of confusion with the FREE PEOPLE marks.

The Panel, therefore, concludes that the disputed domain names were registered and are being used by Respondent in bad faith. Such use of the disputed domain names is also disruptive in relation to the interests of Complainant.

In summary, Respondent, by choosing to register and use the disputed domain names, which are confusingly similar to the FREE PEOPLE mark, intended to ride on the goodwill of this trademark in an attempt to exploit, for commercial gain, Internet users destined for Complainant. In the absence of evidence to the contrary and rebuttal from Respondent, the choice of the disputed domain names and the conducts of Respondent as far as the websites to which the disputed domain names resolve are indicative of registration and use of the disputed domain names in bad faith.

The Panel, therefore, holds that the Complaint fulfils the third condition of paragraph 4(a) of the Policy.

7. 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 <bohofreepeople.com>, <free-peopledeals.com>, <free-peoplesale.com>, <freepeoplewear.com>, <newfreepeople.com>, <free-people.shop>, <freepeopleus.xyz>, and <gowefreepeople.com> be transferred to Complainant.

/Yijun Tian/

Yijun Tian

Sole Panelist

Dated: July 6, 2023