

ADMINISTRATIVE PANEL DECISION

Fiorucci Holdings Limited v. mohamed hassan, viorucci
Case No. D2023-3423

1. The Parties

The Complainant is Fiorucci Holdings Limited, United Kingdom, represented by Bird & Bird LLP, United Kingdom.

The Respondent is mohamed hassan, viorucci, Egypt.

2. The Domain Name and Registrar

The disputed domain name <viorucci.com> is registered with FastDomain, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 10, 2023. On August 11, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 11, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Ahmed Ezzat) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 14, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on August 14, 2023.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on August 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 12, 2023. An email was received from Ahmed Ezzat on August 29, 2023. The Respondent did not submit any response. Accordingly, on October 3, 2023, pursuant to paragraph 6 of the Rules, the Center informed the Parties that it would proceed with the panel appointment process.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on October 3, 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

The Complainant is an Italian fashion brand established in 1967. The Complainant submitted a list of trademark registrations for the trademark FIORUCCI. For example, European Union Trademark Registration No. 000367250, registered on February 20, 2001, in Nice classes 3, 9, 14, 16, 18, 24, 25, 26, and 42.

The Respondent registered the disputed domain name on December 16, 2022. The disputed domain name resolves to a website which purports to sell women's clothing under the Complainant's trademark.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights. The disputed domain name is a misspelling of the Complainant's trademark as it replaces the letter "F" with "V". The disputed domain name is phonetically and visually similar to the Complainant's trademark. The Respondent intends to take advantage of the similarities between the disputed domain name and the Complainant's trademark particularly that the letters "f" and "v" are adjacent to each other on the keyboard. The disputed domain name resolves to a website which purports to sell clothing (the "Website"). The Website was blocked at one point as a "malicious site" and on another occasion the visitor was redirected to spam websites.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not commonly known by the disputed domain name. The Respondent is not authorized by the Complainant to use its trademark nor is it licensed by the Complainant. The identity of the retailer behind the Website is not provided. There are a number of errors in the policies found on the Website. The links of the products being offered are not operational.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant's trademark is well-known. The Respondent must have known of the Complainant's trademark. The Respondent is attempting to attract, for commercial gain, Internet users to the Website by creating a likelihood of confusion with the Complainant's trademark.

B. Respondent

On August 29, 2023, the Center received an email from Ahmed Ezzat, identified as the Respondent in the initial Complaint. In his email, Ahmed Ezzat stated that the disputed domain name is not his and that he has bought it for the benefit of the Respondent, "Mohamed Hassan", and that he has transferred it to the Respondent. Accordingly, any reference to the "Respondent" is directed to the registrant as confirmed by Ahmed Ezzat and disclosed by the Registrar, namely, "mohamed hassan".

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant submitted a list of trademark registrations for the trademark FIORUCCI. The Complainant did not submit copies of those registrations but the Panel has no reason to doubt their existence or their

accuracy. The Panel further notes that the UDRP decisions submitted by the Complainant list the trademark registrations of FIORUCCI (e.g., *Fiorucci Holdings Limited v 杨智超 (Zhi Chao Yang)*, WIPO Case No. [D2022-4839](#)). Accordingly, the Panel is satisfied that the Complainant has established its ownership of the trademark FIORUCCI.

The disputed domain name incorporates the Complainant's trademark FIORUCCI replacing the letter "f" with "v". This is a typical case of typosquatting, which is designed to confuse users (*Redbox Automated Retail, LLC d/b/a Redbox v. Milen Radumilo*, WIPO Case No. [D2019-1600](#)). The generic Top-Level Domain ".com" can be ignored when assessing confusing similarity as it is a standard registration requirement.

Consequently, the Panel finds that the disputed domain name is confusingly similar to the trademark of the Complainant and that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make at least a *prima facie* showing that a respondent does not have any rights or legitimate interests in the disputed domain name. Once such showing is made, the burden of production shifts to the respondent. In the instant case, the Complainant asserts, amongst other things, that the Respondent is not authorized by the Complainant to use its trademark. Therefore, the Complainant has established a *prima facie* case and the burden of production shifts to the Respondent to show that it has rights or legitimate interests.

The Respondent has not provided any evidence to show that it has any rights or legitimate interests in the disputed domain name. In addition, given that the disputed domain name is a classic example of typosquatting, whereby the Respondent has intentionally sought to mislead Internet users unaware of the one-letter difference between the disputed domain name and the Complainant's trademark, the Respondent cannot be said to have rights or legitimate interests in the disputed domain name. Further, given the nature of the content found at the Website, it is clear that the Respondent sought commercial gain from the inherently misleading disputed domain name, which cannot confer rights or legitimate interests upon a respondent.

Accordingly, the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Respondent must have known about the Complainant's business and trademark as the disputed domain name resolves to the Website depicting the Complainant's trademark for online commerce related to clothing, which is the exact same activity the Complainant conducts and as the disputed domain name was registered 55 years after the registration of the Complainant's trademark.

Also, typosquatting itself may be an indication of bad faith (*ESPN, Inc v. XC2*, WIPO Case No. [D2005-0444](#)). In the present case, the Respondent was aware of the Complainant's trademark and has replaced only one letter in order to confuse Internet users and to benefit from typos.

Such conduct of using a domain name, to attract Internet users for commercial gain, would fall squarely within the meaning of paragraph 4(b)(iv) of the Policy. Given the above, the Panel believes that the Respondent has registered the disputed domain name in order to trade off the reputation of the Complainant's trademark.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <viorucci.com>, be transferred to the Complainant.

/Nayiri Boghossian/

Nayiri Boghossian

Sole Panelist

Date: October 10, 2023