

ADMINISTRATIVE PANEL DECISION

Cixi Grand Union Auto Parts Co., Ltd. v. Иван Омельченко,
ФОП “Омельченко И.С”
Case No. D2024-5309

1. The Parties

The Complainant is Cixi Grand Union Auto Parts Co., Ltd., China, represented by Chenlu Zhu, China.

The Respondent is Иван Омельченко, ФОП “Омельченко И.С”, Ukraine.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 25, 2024. On December 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Registration Private, Organization: Domains By Proxy, LLC) and contact information in the Complaint.

The Center sent an email communication to the Complainant on January 2, 2025, 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 January 6, 2025.

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 January 9, 2025. In accordance with the Rules, paragraph 5, the due date for Response was January 29, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 3, 2025.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on February 6, 2025. 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. Procedural Issue

Paragraph 10(b) of the Rules requires the Panel to ensure that the parties are treated with equality and that each party is given a fair opportunity to present its case. Paragraph 10(c) requires that the administrative proceeding takes place with due expedition.

The Respondent's mailing address is in Ukraine, which is subject to an international conflict at the date of this decision. These circumstances may impact case notification, and it is appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the Rules, whether the proceeding should continue.

The Panel is of the view that the proceeding should continue, having considered all the circumstances of the case.

In particular, the Complaint was delivered to the Respondent's email address provided by the Registrar without any delivery failure response. The Respondent has not opposed the continuation of the proceedings. The Complainant has specified in the Complaint that any challenge made by the Respondent to any decision to transfer the disputed domain name will be submitted to the to the "jurisdiction of the courts at the location of the principal office of the concerned registrar" (which is located in the United States of America).

Additionally, as set out below, the Panel has formed the view that the Respondent registered and has used the disputed domain name in bad faith

5. Factual Background

The Complainant sells automotive replacement headlights mostly online.

The Complainant owns United States of America Trademark Registration No. 6162301 for FEBERG registered on September 29, 2020.

The disputed domain name was registered on July 30, 2021, and resolves to a parking page with Pay-Per-Click ("PPC") links.

6. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to a trademark or service mark in which the Complainant has rights. The Complainant owns trademark registration for the trademark FEBERG. The generic Top-Level Domain ("gTLD") ".com" should be disregarded.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services. The Respondent is not commonly known by the disputed domain name. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. The Respondent must have had knowledge of the Complainant's trademark, which was registered prior to the registration of the disputed domain name. The Complainant attempted to contact the Respondent but the latter did not reply. The Respondent has used a privacy service. The disputed domain name resolves to a parking page containing PPC links for commercial establishments. Non-use or passive use does not prevent a finding of bad faith under certain circumstances.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

7. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the disputed domain name incorporates the Complainant's registered trademark in its entirety and the disputed domain name was created after the registration of the Complainant's trademark. Therefore, the Panel finds that the Respondent knew or should have known of the Complainant at the time of registration of the disputed domain name. [WIPO Overview 3.0](#), section 3.2.2.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The Panel finds that by using the disputed domain name for a parking website with PPC links, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its websites or other online location by creating a likelihood of confusion with the Complainant's mark. Such use constitutes bad faith pursuant to paragraph 4(b)(iv) of the Policy.

The Panel finds that the Complainant has established the third element of the Policy.

8. 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 <feberg.com> be transferred to the Complainant.

/Nayiri Boghossian/

Nayiri Boghossian

Sole Panelist

Date: February 20, 2025