

ADMINISTRATIVE PANEL DECISION

Fendi S.r.l. v. Domains By Proxy, LLC / Da Fa Feng
Case No. D2022-2146

1. The Parties

The Complainant is Fendi S.r.l., Italy, represented by Dreyfus & associés, France.

The Respondent is Domains By Proxy, LLC, United States of America (“United States”) / Da Fa Feng, China.

2. The Domain Name and Registrar

The disputed domain name <fendiskin.com> (the “Domain Name”) 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 June 13, 2022. On June 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On June 15, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on June 17, 2022, 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 amended Complaint on June 20, 2022.

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 the Respondent of the Complaint, and the proceedings commenced on June 22, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 12, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 13, 2022.

The Center appointed Ian Lowe as the sole panelist in this matter on July 22, 2022. 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 luxury fashion house, specializing in high fashion clothing, accessories, and furniture. It was founded by Adele and Eduardo Fendi in 1925 and was acquired by the LVMH Group in 2001. The Complainant is the proprietor of a number of registered trademarks in respect of the word mark FENDI including International trademark number 906325, registered on September 18, 2006, designating a number of jurisdictions including China and the United States; and China trademark number 3608117, registered on January 21, 2005.

The Complainant registered the domain name <fendi.com> on December 26, 1995, and operates a website using that domain name to promote its products and services.

The Domain Name was registered on March 31, 2021. It does not presently resolve to an active website, but prior to the Complainant's sending cease and desist communications to the Registrar and to the responsible hosting company, it resolved to a website in the Chinese language featuring and promoting pornographic videos.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its FENDI trademark (the "Mark"), that the Respondent has no rights or legitimate interests in respect of the Domain Name, and that the Respondent registered and is using the Domain Name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

B. Respondent

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

6. Discussion and Findings

For this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

- (i) the Domain Name is confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has uncontested rights in the Mark, both by virtue of its trademark registrations, as referenced above, and as a result of the goodwill and reputation acquired through its widespread use of the FENDI mark for over 95 years. Ignoring the generic Top-Level Domain ("gTLD") ".com", the Domain Name comprises the entirety of the Mark together with the term "skin". In the Panel's view, this addition does not prevent a finding of confusing similarity between the Domain Name and the Mark.

Accordingly, the Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has made out a *prima facie* case that the Respondent could have no rights or legitimate interests in respect of the Domain Name. The Respondent has not used the Domain Name in connection with a *bona fide* offering of goods or services but for a website comprising pornographic images and promoting pornographic videos which does not give any indication of a legitimate reason for use of a domain name comprising the Complainant's distinctive FENDI mark.

The Respondent has never been licensed or otherwise authorized by the Complainant to use the Mark.

The Respondent has chosen not to respond to the Complaint to explain its use of the Domain Name or to take any other steps to counter the *prima facie* case established by the Complainant. In the circumstances, the Panel finds that the Respondent does not have any rights or legitimate interests in respect of the Domain Name.

C. Registered and Used in Bad Faith

In light of the nature of the Domain Name as indicated above, the Panel is satisfied that the Respondent had the Complainant and its rights in the Mark in mind when it registered the Domain Name. The Respondent registered the Domain Name for commercial gain with a view to taking unfair advantage of the Complainant's rights in the Mark, by confusing Internet users into believing that the Domain Name was being operated by or authorized by the Complainant for legitimate purposes related to the Complainant's activities. The association between the Mark and pornographic content also inevitably tarnishes the Complainant's mark.

The Panel is in no doubt that this amounts to paradigm bad faith registration and use for the purposes of the Policy.

Accordingly, the Panel finds that the Domain Name has been registered and is being used in bad faith.

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 Domain Name <fendiskin.com> be transferred to the Complainant.

/Ian Lowe/

Ian Lowe

Sole Panelist

Date: August 4, 2022