

ADMINISTRATIVE PANEL DECISION

Ferring B.V. v. Privacy Protection / huade wang
Case No. D2022-2249

1. The Parties

The Complainant is Ferring B.V., Netherlands, represented by Jacobacci Avocats, France.

The Respondent is Privacy Protection, United States of America / huade wang, China.

2. The Domain Name and Registrar

The disputed domain name <ferringreward.com> (the “Domain Name”) is registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 21, 2022. On June 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On the same day, 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 29, 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 July 1, 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 July 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 24, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 25, 2022.

The Center appointed Jeremy Speres as the sole panelist in this matter on August 2, 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 part of the Ferring group, which is a biopharmaceutical group, leader in reproductive medicine and women's health, and in specialty areas within gastroenterology and urology. The Ferring group was founded 72 years ago and owns subsidiaries in nearly 65 countries and markets its products in 110 countries around the world. The Ferring group had a global turnover of over EUR 2 billion in 2021.

The Complainant's products are sold under the FERRING mark which it has registered in many territories. Most relevant for this matter, given the Respondent's country of China, is International Registration no. 615597 FERRING designating China in classes 5 and 10, which registered on February 18, 1994. The Complainant's mark has been recognised as well-known by numerous prior UDRP panels.

The Domain Name was registered on March 31, 2022 and resolves to a page displaying pay-per-click ("PPC") advertisements for, amongst others, businesses that compete with the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its FERRING mark, that the Respondent has no rights or legitimate interests in the Domain Name, and the Domain Name was registered and is being used in bad faith given that it was calculated to take advantage of confusion with the Complainant's own rewards programme and has been used for PPC advertisements which relate to and compete with the Complainant's services for the Respondent's commercial gain.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

Where the trade mark is recognisable in the domain name, the addition of other terms (including descriptive terms as in this case) does not prevent a finding of confusing similarity (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 1.8). The Complainant's registered FERRING mark is wholly contained and readily apparent within the Domain Name as its first element, and the additional term "reward" does not prevent a finding of confusing similarity. The Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant's un rebutted evidence establishes that its FERRING mark was registered and well-known for many years prior to registration of the Domain Name. The Domain Name is confusingly similar to the Complainant's mark and the Complainant has certified that the Domain Name is unauthorised by it.

Use of a domain name to host PPC links does not represent a *bona fide* offering where such links compete with or capitalise on the reputation and goodwill of the complainant's mark, as in this case ([WIPO Overview 3.0](#) at section 2.9).

There is no evidence that any of the circumstances set out in paragraph 4(c) of the Policy pertain, nor any others which may confer rights or legitimate interests upon the Respondent. The Complainant has satisfied paragraph 4(a)(ii) of the Policy by virtue of having made out an un rebutted *prima facie* case ([WIPO Overview 3.0](#) at section 2.1).

C. Registered and Used in Bad Faith

The Respondent was undoubtedly aware of the Complainant's mark prior to registering the Domain Name given that the Complainant filed a separate complaint against the Respondent involving different domain names a few days prior to registration of the Domain Name, specifically: *Ferring B.V. v. Privacy Protection, ID: 5372808-ER / Huade Wang*, WIPO Case No. [D2022-0982](#). That case was recently decided in the Complainant's favour and involved a *modus operandi* very similar to that exhibited by the Respondent in this case, also involving domain names incorporating the Complainant's mark plus terms descriptive of the Complainant's loyalty/rewards programmes together with PPC advertisements. The Panel has also independently established that the Respondent has been the unsuccessful respondent in eight prior UDRP cases. The Respondent is clearly a serial cybersquatter and this case is a continuation of that pattern.

The Domain Name is almost identical to the prior domain name <ferringrewards.com> owned by the Complainant and used for its own loyalty/rewards programme. In the circumstances, it is likely that the Domain Name was registered as a typosquatting variant with intent to capitalise on confusion with the Complainant's earlier registered rewards domain name, squarely within the scope of paragraph 4(b)(iv) of the Policy.

The Domain Name has been used to advertise services relating to and competitive with those of the Complainant, which is a clear indicator of targeting for commercial gain under paragraph 4(b)(iv) of the Policy. See *Dr. Martens International Trading GmbH, Dr. Maertens Marketing GmbH v. Private Whois Service*, WIPO Case No. [D2011-1753](#). Although the advertisements may be served programmatically by a third party, the Respondent cannot disclaim responsibility for them ([WIPO Overview 3.0](#) at section 3.5).

The Panel draws adverse inferences from the Respondent's failure to take part in the present proceeding where an explanation is certainly called for ([WIPO Overview 3.0](#) at section 4.3) and the use of a privacy proxy service ([WIPO Overview 3.0](#) at section 3.6).

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 Domain Name, <ferringreward.com>, be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: August 16, 2022