

## **ADMINISTRATIVE PANEL DECISION**

Fareva S.A., Fareva Services v. Siddharth Karnani Karnani  
Case No. D2022-4212

### **1. The Parties**

The Complainants are Fareva S.A., Luxembourg, and Fareva Services, France, represented by Osmose Avocats, France.

The Respondent is Siddharth Karnani Karnani, Mexico.

### **2. The Domain Name and Registrar**

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 7, 2022. On November 8, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 8, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 November 11, 2022. Details of the notification process are set out in section 6.A. below.

On November 16, 2022, a third party contacted the Center by email, stating “We believe [the Center] has the wrong address, as we dont know any Siddhart Karnani, the office telephone is incorrect as well as the email, and there is no brand or name we registered in 2015. We are a mexican food restaurant, someone must have typed the wrong address on purpose or [b]y mistake”. On November 18, 2022, the Center replied to this third party, explaining the Center’s obligations under the Policy, the Rules, and the Supplemental Rules, and noting “We further note from your communication that it appears the registration of the disputed domain name has been made without your knowledge or authorization by a third party using your physical address”.

In accordance with the Rules, paragraph 5, the due date for Response was December 1, 2022. The Respondent did not submit any response. Accordingly the Center notified the Respondent's default on December 7, 2022.

The Center appointed Richard G. Lyon as the sole panelist in this matter on December 9, 2022. The Panel finds that it was properly constituted. The Panel has submitted his 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 Fareva S.A. is a Luxembourg corporation; its wholly owned subsidiary, the Complainant Fareva Services, is a French corporation. Both are engaged in industrial subcontracting in the household and industrial, beauty, makeup, pharmaceutical and application programming interface sectors. The Complainants have submitted evidence showing that the Complainant Fareva S.A. has an annual turnover of EUR 1.8 billion and employs more than 13,000 people in more than 40 locations worldwide.

The Complainants own numerous trademarks incorporating FAREVA, including:

FAREVA, international trademark number 853173, designating Australia, Botswana, Colombia, Ghana, Japan, Republic of Korea, Madagascar, Mexico, New Zealand, Norway, African Intellectual Property Organization, Rwanda, Singapore, Tunisia, Türkiye, United States of America, Uzbekistan, Zambia, Zimbabwe (Protocol), Switzerland, China, Cuba, Algeria, Egypt, Kenya, Lesotho, Morocco, Mozambique, Namibia, Serbia, Russian Federation, Sudan, Sierra Leone, Eswatini, Ukraine and Viet Nam, registered on March 1, 2005.

FAREVA, international trademark number 1360102, designating European Union, Mexico, Türkiye, United States of America, Switzerland, Russian Federation, and Ukraine, registered on April 7, 2017.

The Registrar's data include an address for the Respondent in Mexico. The disputed domain name was registered on August 30, 2022. According to the Complaint, and verified separately by the Center and the Panel, the disputed domain name does not resolve to an active website. The only use to which the disputed domain name has been put, according to the record, has been to send emails to several of the Complainants' customers.

#### **5. Parties' Contentions**

##### **A. Complainants**

The Complainants ask for transfer of the disputed domain name, asserting that the disputed domain name is confusingly similar to their FAREVA trademarks; the Respondent has no rights or legitimate interests in respect to the disputed domain name; and the disputed domain name has been registered and is being used in bad faith. Specific contentions and the Complainants' supporting evidence are noted in Section 6.B. below.

##### **B. Respondent**

The Respondent did not reply to the Complainants' contentions.

## 6. Discussion and Findings

### A. Jurisdiction

The communications between the Center and the third party described above raise the issue of the Panel's jurisdiction to resolve this matter, as there is some question whether the Respondent received notice of the Complaint.

Paragraph 2(a) of the Rules provides:

“(a) When forwarding a complaint, including any annexes, electronically to the Respondent, it shall be the Provider's responsibility to employ reasonably available means calculated to achieve actual notice to Respondent. Achieving actual notice, or employing the following measures to do so, shall discharge this responsibility:

(i) sending Written Notice of the complaint to all postal-mail and facsimile addresses (A) shown in the domain name's registration data in Registrar's WhoIs database for the registered domain-name holder, the technical contact, and the administrative contact and (B) supplied by Registrar to the Provider for the registration's billing contact; and

(ii) sending the complaint, including any annexes, in electronic form by e-mail to:

(A) the e-mail addresses for those technical, administrative, and billing contacts;

(B) `postmaster@<the contested domain name>`; and

(C) if the domain name (or “www.” followed by the domain name) resolves to an active web page (other than a generic page the Provider concludes is maintained by a registrar or ISP for parking domain-names registered by multiple domain-name holders), any e-mail address shown or e-mail links on that web page; and

(iii) sending the complaint, including any annexes, to any e-mail address the Respondent has notified the Provider it prefers and, to the extent practicable, to all other e-mail addresses provided to the Provider by Complainant under Paragraph 3(b)(v)”.

In this proceeding the Center complied exactly with its obligations under this Rule. It sent notice of the Complaint by email and post/courier to the address listed in the Registrar's Whois database. As noted above, the disputed domain name does not resolve to an active website and the Respondent did not provide the Center with an alternate address. The actions the Center took not only met the Rule's requirements, they were all that could be done in the circumstances, and certainly “reasonably available means calculated to achieve actual notice to Respondent”. If the Complaint failed to reach the Respondent, the only apparent reason was the Respondent's own failure, whether accidental or intentional, to furnish accurate contact details. The Panel thus has jurisdiction to decide this administrative proceeding.

### B. The Merits

Paragraph 4(a) of the Policy requires the Complainant to prove the following three elements to be entitled to the relief sought: (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; (ii) that the Respondent has no rights or legitimate interests in respect to the disputed domain name; and (iii) that the disputed domain name has been registered and is being used in bad faith. The Complainant bears the burden of proof under each element.

The Respondent's default does not automatically result in an order of transfer/cancellation or constitute an admission of any factual matter pleaded in the Complaint. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 4.3.

i. Identical or Confusingly Similar

The Complainants have attached copies of numerous trademarks for FAREVA, conclusive proof of rights in those marks. As the Complainants contend, this is a typosquatting case. The disputed domain name simply transposes the first two vowels (“e” and “a”) in the mark – FERAVA instead of FAREVA. Confusing similarity is obvious. The Complainants have established this Policy element.

ii. Rights or Legitimate Interests

Section 2.1 of the [WIPO Overview 3.0](#) addresses the standard method of proof of a respondent’s lack of rights or a legitimate interest in a domain name: “While 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.”

The Complainants have asserted that neither of them authorized the Respondent to use the FAREVA marks, and nothing in the record indicates or suggests that the Respondent has been commonly known by that name. The Complainants have therefore made their *prima facie* case, and the Respondent has produced nothing to contest it. The Complainants have also submitted as evidence email letters dated early October 2022, to several of their business partners from an address incorporating the disputed domain name, each of which letters seeks payment of an invoice said to be from the Complainants. This apparent attempt at phishing is not legitimate.

The Complainants have established this Policy element.

iii. Registered and Used in Bad Faith

The Complainants have identified international trademarks applicable to Mexico, the Respondent’s reported domicile, though they do not provide any evidence of special renown of their FAREVA marks in that country. But as this Panel noted recently, citing [WIPO Overview 3.0](#), section 1.9, typosquatting by itself establishes the two principal factual matters ordinarily required to demonstrate bad faith in registration and use: knowledge of the Complainants’ marks and an intent (often called targeting) to take advantage of those marks. *DISH Network L.L.C. v. Alon Garay Garay*, WIPO Case No. [D2022-3437](#). Bad faith is even more apparent here, as (unlike DISH) neither FAREVA nor FERAVA is a common word in English or Spanish. As in the *DISH Network* case, use of the disputed domain name as part of a phishing scheme a few weeks after registration is further proof of knowledge, targeting, and registration for a nefarious purpose.

The fact that the Respondent has not used the disputed domain name at a web address does not aid the Respondent. The examples of bad faith in paragraph 4(a)(iii) of the Policy are expressly nonexclusive, and Policy precedent is now clear that bad faith use need not involve conduct at a website that incorporates a domain name. *E.g.*, *Gannett Co., Inc. v. Privacy Service Provided by Withheld for Privacy ehf /Sameul Sanders, Sam LCC*, WIPO Case No. [D2022-1233](#) (phishing; spearfishing); *Valero Energy Corporation and Valero Marketing and Supply Company v. Registration Private, Domains By Proxy LLC / Valero Energy Corporation*, WIPO Case No. [D2017-0087](#) (fraudulent fee scheme; phishing).

The Complainants have proven bad faith in registration and use.

## 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, <ferava.com>, be transferred to the Complainants.

*/Richard G. Lyon/*

**Richard G. Lyon**

Sole Panelist

Date: December 20, 2022