

## **ADMINISTRATIVE PANEL DECISION**

Frances Valentine LLC v. liuning liu  
Case No. D2023-1146

### **1. The Parties**

The Complainant is Frances Valentine LLC, United States of America (“United States”), represented by Brand Enforcement Team 101 Domain, United States.

The Respondent is liuning liu, China.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 14, 2023. On March 15, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 16, 2023, 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 March 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 11, 2023.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on April 14, 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, Frances Valentine LLC, was established in 2016 and quickly built an entire fashion brand around their trademark FRANCES VALENTINE.

The Complainant owns trademark registrations for FRANCES VALENTINE in different countries, including the United States Registration No. 4.965.459 of May 24, 2016, and the European Union Registration No. 014259477 of October 8, 2015, as well as registrations for different domain names comprising the trademark FRANCES VALENTINE, as the domain names <francesvalentine.com>, registered on June 18, 2015 and <francesvalentine.sale>, registered on June 19, 2015.

The disputed domain name was registered on July 21, 2022, and resolves to a website offering for sale items apparently identical and/or similar to the Complainant's products.

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

##### **A. Complainant**

The Complainant argues that its trademarks have been consistently used since 2015 and are well known in the woman's fashion industry. Also, the Complainant says that the disputed domain name is confusingly similar since it incorporates its trademark merely adding a generic, dictionary word that is commonly used in the Complainant's industry.

In addition, the Complainant informs that the Respondent has no rights or legitimate interests in the disputed domain name because it has not licensed nor allowed the Respondent to use the trademark FRANCES VALENTINE for any purpose. Further, the Complainant mentions that the Respondent does not appear to have any legitimate connection to the trademark FRANCES VALENTINE and the disputed domain name is solely being used to prevent customers from navigating to the Complainant's true FRANCES VALENTINE clothing and accessory products.

According to the Complainant, the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name as it intentionally imitates the Complainant's website to perpetuate the unauthorized sale of goods protected by the Complainant's trademarks.

Furthermore, the Complainant alleges that the Respondent is fraudulently using the disputed domain name to confuse customers who associate the trademark FRANCES VALENTINE into purchasing counterfeited products belonging to the Complainant and disrupting the Complainant's business by profiting from its reputation, reason why it is clear that the Respondent registered and is using the disputed domain name in bad faith.

Finally, the Complainant requests the transfer of the disputed domain name.

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

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

#### **6. Discussion and Findings**

As per paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

#### **A. Identical or Confusingly Similar**

The evidence demonstrates that the Complainant is the owner of trademark registrations for FRANCES VALENTINE in different countries and also of different domain names, such as <francesvalentine.com> and <francesvalentine.sale>.

The disputed domain name reproduces the dominant element of the Complainant's trademark FRANCES VALENTINE. The addition of the term "discount" does not avoid a finding of confusing similarity between the disputed domain name and the Complainant's trademark. It is moreover noted that in the present case the Respondent displayed the Complainant's logo, trademark, and products on the website connected to the disputed domain name, as per the evidence showed in the Complaint. See section 1.15 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

It is the general view among UDRP panels that the addition of other terms (whether descriptive, geographical, or otherwise) to a trademark in a domain name would not prevent a finding of confusing similarity under the first element of the UDRP. See section 1.8 of the [WIPO Overview 3.0](#).

As numerous prior UDRP panels have also recognized, the incorporation of a trademark in its entirety or a dominant feature of a trademark is sufficient to establish that a domain name is identical or confusingly similar to the complainant's mark. See section 1.7 of the [WIPO Overview 3.0](#).

The Panel finds that paragraph 4(a)(i) of the Policy has been proved by the Complainant, *i.e.*, the disputed domain name is confusingly similar to the Complainant's trademark.

#### **B. Rights or Legitimate Interests**

The Respondent has not submitted any response to the Complaint.

There is no evidence that the Respondent has any authorization to use the Complainant's trademark or to register domain names containing the Complainant's trademark.

There is no evidence that the Respondent is commonly known by the disputed domain name.

There is no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name or that before any notice of the dispute the Respondent has made use of, or demonstrable preparations to use the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services. Instead, the disputed domain name resolves to a website with unauthorized sale of goods reproducing the Complainant's trademarks and products.

Moreover, the term "discount" in the disputed domain name demonstrates that the disputed domain name refers to a website where purportedly the Complainant's products, albeit fake versions, can be purchased at a cheaper price.

The Panel finds that the use of the disputed domain name, which reproduces the Complainant's trademark, does not correspond to a *bona fide* use of the disputed domain name under the Policy.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(ii) of the Policy has been satisfied, *i.e.*, the Respondent has no rights or legitimate interests in the disputed domain name.

### C. Registered and Used in Bad Faith

The trademark FRANCES VALENTINE is registered by the Complainant in different jurisdictions and the disputed domain name reproduces its dominant element. The Respondent has no rights or legitimate interests in the disputed domain name.

The disputed domain name includes the term “discount”, which in this case may indeed serve as an additional evidence of the registration of the disputed domain name in bad faith, considering that the website corresponding to the disputed domain name refers to a platform for cheaper “FRANCES VALENTINE” items, with the unauthorized reproduction of the same logo and images/photographs from the Complainant’s original website. On this basis it is clear that the Respondent had the Complainant’s trademark in mind when registering the disputed domain name.

The disputed domain name refers to a website where purportedly the Complainant’s products can be purchased at a cheaper price. Finally, the Respondent has chosen not to respond to the Complainant’s allegations. According to the panel’s decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company*, WIPO Case No. [D2009-0610](#): “the failure of the Respondent to respond to the Complaint further supports an inference of bad faith.”

Therefore, this Panel finds that the Respondent has intentionally attempted to cause confusion with the Complainant’s trademark and that the Respondent’s attempt of taking undue advantage of the trademark FRANCES VALENTINE for as described in paragraph 4(b)(iv) of the Policy has been demonstrated.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(iii) of the Policy has been satisfied, *i.e.*, the disputed 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 disputed domain name, <francesdiscount.com> be transferred to the Complainant.

*/Mario Soerensen Garcia/*

**Mario Soerensen Garcia**

Sole Panelist

Date: April 28, 2023