

ADMINISTRATIVE PANEL DECISION

Faber S.P.A v. Juan Zhu
Case No. D2023-4256

1. The Parties

The Complainant is Faber S.P.A, Italy, represented by BrandIT GmbH, Switzerland.

The Respondent is Juan Zhu, China.

2. The Domain Name and Registrar

The disputed domain name <lefaber.com> is registered with Heavydomains.net LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 12, 2023. On October 12, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 14, 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 October 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 8, 2023.

The Center appointed Beatrice Onica Jarka as the sole panelist in this matter on November 15, 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, Faber S.p.A, is part of the Franke Group, a global group of companies based in Switzerland, originally founded in 1911. For over 100 years, the Complainant has provided innovative devices and systems with outstanding designs for kitchens, bathrooms, professional foodservices, and coffee preparation.

The Complainant is the owner of the registered trademark FABER as a word mark and design mark in numerous jurisdictions all over the world, which were registered many years before creation of the disputed domain name, such as but not limited to:

- the International trademark No. 510203 for FABER, registered on February 13, 1987, in class 11;
- the International trademark No. 974422 for FABER, registered on July 21, 2008, in class 11;
- the International trademark No. 1343497 for FABER, registered on November 30, 2016, in classes 11 and 21;
- the European Union trademark No. 9180712 for FABER, registered on February 12, 2011, in classes 6, 11, 21, and 37; and
- the China trademark No. G974422 for FABER, registered on July 21, 2008, in class 11.

The disputed domain name was registered on April 3, 2023, by an individual Juan Zhu and appears to resolve to a website displaying pornographic content.

5. Parties' Contentions

A. Complainant

In its Complaint, the Complainant contends that:

- the disputed domain name incorporates, in its second-level portion, the Complainant's registered and widely known trademark FABER and the term "le".
- the term "le" - which may refer to corresponding French definite article, meaning "the" in English, as well as may be an acronym or abbreviation of another word.
- the addition of the term "le", would not prevent a finding of confusing similarity to the Complainant's trademark.
- the presence of the generic Top-Level Domain ("gTLD") extension ".com" in the first level portion of the disputed domain name is a standard registration requirement and may be disregarded when assessing whether the disputed domain name is confusingly similar to the trademark in which the Complainant has rights.
- the disputed domain name was registered on April 3, 2023, many years after the first registrations of the Complainant's FABER trademarks.
- the Complainant has not licensed or authorized the Respondent to register or use the disputed domain name, nor is the Respondent affiliated to the Complainant in any form.
- the Respondent's name "Juan Zhu" is not reflected in the disputed domain name.
- the Respondent has not been using, or preparing to use, the disputed domain name in connection with a *bona fide* offering of goods and services, nor making a legitimate noncommercial or fair use of the disputed domain name.
- the structure of the disputed domain name - incorporating, in its second level portion, the FABER trademark, the term "le" and, in its first level portion, the gTLD ".com" - reflects the Respondent's intention to create an association, and a subsequent likelihood of confusion, with the Complainant, its FABER trademark and its domain name <faberspa.com> in Internet users' mind.
- the disputed domain name in its structure refers to the Complaint's trademark and is close in its spelling to the Complainant's extensively used domain name <faberspa.com>.

- by reading the disputed domain name, the disputed domain name being closed to the Complainant's domain name <faberspa.com>, Internet users may be falsely lead believe that the disputed domain name is directly connected to the Complainant's domain name <faberspa.com> which resolves to the Complainant's official website.
- the structure of the disputed domain name may arouse Internet users' attention - when they are looking for information about the Complainant and its products online. Being deceived, Internet users might had entered the disputed domain name in a browser and were involuntarily led to the infringing website, which was not displaying any content in relation with the Complainant's trademark FABER and its products.
- on the contrary, the disputed domain name resolved website displayed content of pornographic nature.
- the Respondent deliberately registered the disputed domain name as a close version of the Complainant's domain name <faberspa.com> and divert Internet users looking for the Complainant and its website online. By reading the disputed domain name, Internet users may believe that it is directly connected or authorized by the Complainant and that the disputed domain name will resolve to the Complainant's website, which is not the case.
- the Respondent has aimed at deceiving Internet users by making them believe that the disputed domain name is directly linked to, or operated by, the Complainant. In similar circumstances, when "the Respondent directed the disputed domain name to a website showing gambling and pornographic content" such use of the disputed domain name "cannot be considered as making a legitimate noncommercial or fair use of the disputed domain name nor using the disputed domain name in connection with a *bona fide* offering of goods or services".
- the disputed domain name resolves to a website displaying pornographic content.
- the Respondent has registered and use of the disputed domain name, which by its structure aims at confusing Internet users, to divert them and obtain a commercial gain.

B. Respondent

Despite of being procedurally summoned, the Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel finds that the Complainant and the Complainant's group hold rights in the FABER trademark incorporated in the disputed domain name.

In regard to the confusing similarity of the disputed domain name, this Panel finds that the addition of the term "le" to the FABER trademarks held by the Complainant would not prevent a finding of confusing similarity to the Complainant's trademark, as the trademark is still fully recognisable in the disputed domain name.

Same reasoning applies to the presence of the gTLD extension ".com" in the first level portion of the disputed domain name.

Consequently, this Panel finds that the disputed domain name is confusingly similar to the Complainant s FABER trademark and the first element of paragraph 4(a) of the Policy is therefore established.

B. Rights or Legitimate Interests

For the second element of the Policy, the Complainant has to show that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainant makes out a *prima facie* showing, the burden of production shifts to the Respondent (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 2.1).

According to the Complainant, the circumstances of the case indicate that:

- the Complainant has not licensed or authorized the Respondent to register or use the disputed domain name, nor is the Respondent affiliated to the Complainant in any form.
- the Respondent's name "Juan Zhu" is not reflected in the disputed domain name.
- the structure of the disputed domain name - incorporating, in its second level portion, the FABER trademark, the term "le" and, in its first level portion, the gTLD ".com" - reflects the Respondent's intention to create an association, and a subsequent likelihood of confusion, with the Complainant, its FABER trademark and its domain name <faberspa.com> in Internet users' mind.
- the disputed domain name in its structure refers to the Complainant's trademark and is close in its spelling to the Complainant's extensively used domain name.
- by reading the disputed domain name, the disputed domain name being close to the Complainant's domain names, Internet users may be falsely lead believe that the disputed domain name is directly connected to the Complainant's domain name which resolves to the Complainant's official website.
- the structure of the disputed domain name may arouse Internet users' attention - when they are looking for information about the Complainant and its products online.
- the disputed domain name resolved website displayed content of pornographic nature.
- the Respondent has not been using, or preparing to use, the disputed domain name in connection with a *bona fide* offering of goods and services, nor making a legitimate noncommercial or fair use of the disputed domain name.

Accordingly, this Panel finds that the Complainant has made a *prima facie* showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and such showing has not been rebutted by the Respondent, as it did not reply to the Complainant's contentions.

Consequently, the Panel finds that the second element of paragraph 4(a) of the Policy is therefore established.

C. Registered and Used in Bad Faith

For establishing the third element of the Policy, the Complainant indicated a range of circumstances for assessing bad faith which in accordance to the [WIPO Overview 3.0](#), sections 3.1.4 and 3.2.

It is evident that the Respondent had prior knowledge of the Complainant's FABER trademark, and registered the disputed domain name with the intent to take advantage of the FABER trademark and divert Internet users looking for the Complainant and its website online. It appears that the Respondent has aimed at deceiving Internet users by making them believe that the disputed domain name is directly linked to, or operated by, the Complainant.

In addition, the pornographic content displayed under the disputed domain name, is indicative of bad faith use with the sole purpose to obtain a commercial gain.

The Panel finds that the Complainant document the bad faith in both registration and use of the disputed domain name.

Consequently, the Panel finds that the third and the last element of paragraph 4(a) of the Policy is therefore established.

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 <lefaber.com> be cancelled.

/Dr. Beatrice Onica Jarka/

Dr. Beatrice Onica Jarka

Sole Panelist

Date: November 28, 2023