

## **ADMINISTRATIVE PANEL DECISION**

Frasers Property Limited v. Mary Miller, Kyle  
Case No. D2023-5205

### **1. The Parties**

The Complainant is Frasers Property Limited, Singapore, represented by Amica Law LLC, Singapore.

The Respondent is Mary Miller, Kyle, United States of America.

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

The disputed domain names <frasersproperty.com> and <frasersporperty.com> are registered with Squarespace Domains II LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 6, 2023. On December 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On December 14, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 18, 2023, 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 December 22, 2023.

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 December 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 17, 2024. The Respondent did not submit any formal response. The Respondent sent an email communication to the Center on January 2, 2024.

The Center appointed Mihaela Maravela as the sole panelist in this matter on January 24, 2024. 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**

According to information in the Complaint, the Complainant is a global real estate investor, developer, and manager with a long-standing history dating back to 1980. The Complainant is listed on the Main Board of the Singapore Exchange Securities Trading Limited. The Complainant has a portfolio of registered trademarks featuring the words FRASERS, FRASERS PROPERTY, and similar marks worldwide, including the European Union trademark no. 017033903 for FRASERS PROPERTY registered as of April 27, 2018, for classes of services 35, 36, 37 and 42.

Also, the Complainant has registered various domain names with FRASERS, including <frasersproperty.com> or <frasersproperty.com.au>.

The disputed domain name <farsersproperty.com> was registered on October 8, 2023, and the disputed domain name <frasersporperty.com> was registered on October 15, 2023. The disputed domain names do not resolve to active websites.

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

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

The Complainant contends that it has satisfied each of the elements required under the Policy for the transfer of the disputed domain names.

Notably, the Complainant contends that each of the disputed domain names is identical with or confusingly similar to its marks because they only consist of minor misspellings of the same. The disputed domain name <frasersporperty.com> is identical to the FRASERS PROPERTY mark save for the inversion of the position of the letters "o" and "r" in the word "property". Notwithstanding such inversion, the Complainant's FRASERS PROPERTY mark is clearly recognizable in the mentioned disputed domain name, which also wholly incorporates the Complainant's FRASERS mark. The disputed domain name <farsersproperty.com> is identical to the FRASERS PROPERTY mark save for the inversion of the position of the letters "a" and "r" in the word "frasers".

With respect to the second element, the Complainant argues that it has never authorized the Respondent to use the FRASERS and FRASERS PROPERTY marks. The Respondent is not associated with or connected to the Complainant in any way. At the time of filing the Complaint, neither of the disputed domain names resolved to an active website (both resolve to an error message indicating that "[t]his site can't be reached") and there is no evidence of use of, or demonstrable preparations to use, the disputed domain names in connection with a bona fide offering of goods or services. The Complainant further contends that typosquatting is a well-established pattern of malicious domain name registration and an indication of a lack of rights or legitimate interests in a domain name.

As regards the third element, the Complainant argues that given its reputation and extensive use of the FRASERS and FRASERS PROPERTY marks globally and in Singapore, these marks have become widely known and the Respondent must have been aware of them. Moreover, the disputed domain names were registered long after the Complainant attained registered rights in the FRASERS and FRASERS PROPERTY marks. Despite this and the fact that the Respondent has no relation with the Complainant, it proceeded to apply to register the disputed domain names, which are almost identical with the FRASERS and FRASERS PROPERTY marks.

## **B. Respondent**

The Respondent did not formally reply to the Complainant's contentions. In its informal correspondence, the Respondent said that "[p]lease call my husband, Steven Miller, who will be handling all correspondences regarding this matter, at [redacted] between the hours of 9:00 a.m. and 8:00 p.m. UTC -05:00 to discuss this process."

## **6. Discussion and Findings**

No formal response has been received from the Respondent in this case. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules. The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.2.

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain names are 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 names, and (iii) the disputed domain names have been registered and are being used in bad faith.

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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain names. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain names consist of an obvious misspelling of the FRASERS PROPERTY trademark of the Complainant. This misspelling in the disputed domain names, also referred to as typosquatting, does not prevent a finding of confusing similarity. [WIPO Overview 3.0](#), section 1.9.

The Panel finds the first element of the Policy has been established.

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

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has

not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

The Panel finds the second element of the Policy has been established.

### **C. Registered and Used in Bad Faith**

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

According to the un rebutted assertions of the Complainant, its FRASERS PROPERTY trademarks were widely used in commerce well before the registration of the disputed domain names. Given also the typosquatted character of the disputed domain names, it is most likely that the Respondent was aware of the FRASERS PROPERTY trademark at the registration date of the disputed domain names. The Respondent has provided no explanations for why she registered the disputed domain names.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain names does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the reputation of the Complainant's trademark, and the composition of the disputed domain names, and finds that in the circumstances of this case, the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy.

Moreover, the Respondent, although having submitted an informal communication in these proceedings, has failed to rebut the Complainant's contentions or provide any evidence of actual or contemplated good-faith use of the disputed domain names. In the Panel's view, the circumstances of the case represent evidence of registration and use in bad faith of the disputed domain names. The Respondent failed to bring evidence to the contrary.

The Panel finds that the Complainant has established the third element 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 disputed domain names <farsersproperty.com> and <frasersporperty.com> be transferred to the Complainant.

*/Mihaela Maravela/*

**Mihaela Maravela**

Sole Panelist

Date: February 4, 2024