

ADMINISTRATIVE PANEL DECISION

Fisher Asset Management, LLC v. Name Redacted
Case No. D2024-0521

1. The Parties

Complainant is Fisher Asset Management, LLC, United States of America (“United States”), represented by CSC Digital Brand Services Group AB, Sweden.

Respondent is Name Redacted.¹

2. The Domain Name and Registrar

The disputed domain name <fisherinvestmentllc.com> is 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 February 5, 2024. On February 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to Complainant on February 6, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on February 8, 2024.

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”).

¹The Respondent appears to have used the name and/or contact details of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this Decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this Decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST 12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on February 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 7, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on March 13, 2024.

The Center appointed Lorelei Ritchie as the sole panelist in this matter on March 22, 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

Complainant is a multinational company based in the United States. For decades prior to the registration of the disputed domain name, Complainant has offered investment management and investment advisory services under its FISHER INVESTMENTS mark. Complainant, and its affiliates, own several registrations for these marks, including, among others, United States Registration No. 3103881 (registered June 13, 2006) and European Union Registration No. 13338595 (registered February 5, 2015). Complainant also owns the registration for several domain names, including <fisherinvestments.com> (registered March 18, 1999). Complainant uses the associated website to communicate with consumers online.

The disputed domain name was registered on November 23, 2023. The disputed domain name is not currently linked to an active website. Respondent has no affiliation with Complainant, nor any license to use its marks.

5. Parties' Contentions

A. Complainant

Complainant contends that (i) the disputed domain name is identical or confusingly similar to Complainant's trademarks, (ii) Respondent has no rights or legitimate interests in the disputed domain name; and (iii) Respondent registered and is using the disputed domain name in bad faith.

Specifically, Complainant contends that it owns rights to the FISHER INVESTMENTS mark, which is "known internationally" for Complainant's over USD 211 billion in investment management and investment advisory services provided to over 135,000 clients globally, and for which Complainant has been recognized with awards from media outlets such as USA Today and the Financial Times.

Complainant contends that Respondent has incorporated the misspelled version of Complainant's FISHER INVESTMENTS mark into the disputed domain name, with only the omission of the final "s" and with the standard commercial designation, "llc." Complainant contends that Respondent lacks rights or legitimate interest in the disputed domain name, and rather has registered and is using it in bad faith, having simply acquired the disputed domain name intending to cause confusion among Internet users as to the source or affiliation of the disputed domain name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel must first determine whether the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy. The Panel finds that it is. The disputed domain name directly incorporates a misspelled version of Complainant's FISHER INVESTMENTS mark, with only the omission of the final "s" and with the addition of the standard commercial designation, "llc."

Incorporating the "dominant feature" of a mark may be sufficient for a finding under this first element of the UDRP. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7. Furthermore, numerous UDRP panels have agreed that the addition of a term or letters to a trademark does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8. The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Panel next considers whether Complainant has shown that Respondent has no "rights or legitimate interest," as must be proven to succeed in a UDRP dispute. Paragraph 4(c) of the Policy gives examples that might show rights or legitimate interests in a domain name. These examples include: (i) use of the domain name "in connection with a *bona fide* offering of goods or services"; (ii) demonstration that respondent has been "commonly known by the domain name"; or (iii) "legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue".

No evidence has been presented to the Panel that might support a claim of Respondent's rights or legitimate interests in the disputed domain name, and Respondent has no license from, or other affiliation with, Complainant. Further, the composition of the disputed domain name, namely a misspelling of Complainant's trademark along with the standard commercial designation, carries a risk of implied affiliation to Complainant, contrary to the fact, which cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1.

Therefore, the Panel finds that Complainant has provided sufficient evidence of Respondent's lack of "rights or legitimate interests" in accordance with paragraph 4(a)(ii) of the Policy which Respondent has not rebutted.

C. Registered and Used in Bad Faith

There are several ways that a complainant can demonstrate that a domain name was registered and used in bad faith. As noted in Section 4 of this Panel's decision, the disputed domain name is not currently linked to an active website. It is nevertheless well established that passively holding a domain name does not necessarily shield a respondent from a finding of bad faith. See [WIPO Overview 3.0](#), section 3.3, which notes that the "non-use of a domain name" does not necessarily negate a finding of bad faith.

Rather, a panel must examine "the totality of the circumstances," including, for example, whether a complainant has a well-known trademark, and whether a respondent conceals his/her identity and/or replies to the complaint. Respondent here used a privacy service and did not respond to the Complaint or to prior correspondence from Complainant. Furthermore, Respondent apparently used fraudulent registration details, further underscoring Respondent's bad faith registration of the disputed domain name. Moreover, the Panel finds that Complainant has demonstrated a likelihood that Respondent was aware of Complainant's prior use of its marks for investment management and investment advisory services.

Therefore, the Panel finds sufficient evidence that Respondent registered and used the disputed domain name in bad faith for purposes of 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 disputed domain name <fisherinvestmentllc.com> be transferred to Complainant.

/Lorelei Ritchie/

Lorelei Ritchie

Sole Panelist

Date: April 5, 2024