

ADMINISTRATIVE PANEL DECISION

Fear of God, LLC v. Zhang Fei
Case No. D2024-1711

1. The Parties

The Complainant is Fear of God, LLC, United States of America (“United States”), represented by Sheppard, Mullin, Richter & Hampton, United States.

The Respondent is Zhang Fei, China.

2. The Domain Name and Registrar

The disputed domain name <fearofgoditalia.com> is registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 23, 2024. On April 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 25, 2024, 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 contact information in the Complaint.

The Center sent an email communication to the Complainant on April 25, 2024 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 April 27, 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”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on May 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 30, 2024.

The Center appointed Eva Fiammenghi as the sole panelist in this matter on June 4, 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

The Complainant is a well-known American fashion label established in 2013, specializing in high-end streetwear and luxury apparel. The Complainant has gained significant recognition and a strong reputation in the fashion industry.

The Complainant, bases its complaint on inter alia, the following registered trademarks:

- United States trademark FEAR OF GOD Reg. No.: 5,696,924 registered on March 12, 2019, in class 25.
- European Union trademark FEAR OF GOD Reg. No.: 017806175 registered on June 20, 2018, in classes 18, 25 and 35
- United States trademark FEAR OF GOD Reg. No.: 6,310,804 registered on March 30, 2021, in class 18.

The Complainant is also the owner of the domain name <fearofgod.com>.

The disputed domain name was registered on August 23, 2023. The website associated with the disputed domain name has been used to sell goods that purportedly originate from the Complainant, creating confusion among consumers regarding the source of the goods. The content and use of the website have changed over time, initially displaying a landing page and later shifting to an e-commerce platform offering for sale potentially counterfeit FEAR OF GOD goods.

5. Parties' Contentions

A. Complainant

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

The Complainant asserts that the disputed domain name is confusingly similar to its registered trademarks FEAR OF GOD. The addition of the geographic term "Italia" does not differentiate the disputed domain name from the Complainant's FEAR OF GOD mark.

The Complainant argues that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not commonly known by "fearofgoditalia" and has not been authorized by the Complainant to use the trademark. The Respondent's use of the domain name to sell alleged counterfeit FEAR OF GOD products further negates any claim to legitimate interests.

The Complainant asserts that the Respondent registered and is using the domain name in bad faith. The Respondent's intent to attract Internet users for commercial gain by creating confusion with the Complainant's trademark is evidenced by the sale of alleged counterfeit goods on the associated website. The Respondent was likely aware of the Complainant's rights in the FEAR OF GOD trademark at the time of registration, indicating bad faith registration and use.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed 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; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

These elements are discussed in turn below. In considering these elements, paragraph 15(a) of the Rules provides that the Panel shall decide the Complaint on the basis of statements and documents submitted and in accordance with the Policy, the Rules and any other rules or principles of law that the Panel deems applicable.

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 name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[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 entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, "italia") may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 name. 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 name such as those enumerated in the

Policy or otherwise. The record further allows the Panel to find, on a balance of probabilities, that the products purportedly offered in the Respondent's website were probable counterfeits or at least an illegitimate offer for sale of the Complainant's goods.

Panels have held that the use of a domain name for illegal activity here, claimed as the sale of counterfeit goods, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

In the present case, the Panel notes that the Respondent registered and is using the disputed domain name in bad faith under paragraph 4(b) of the Policy.

The Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark. The use of the disputed domain name to sell counterfeit Fear of God products demonstrates an attempt to profit from the Complainant's established brand and goodwill.

By using the disputed domain name to offer counterfeit goods, the Respondent is disrupting the Complainant's business. This not only confuses consumers but also harms the reputation and business of the Complainant.

The Respondent's registration and use of a domain name that incorporates the Complainant's well-known trademark, coupled with the sale of counterfeit products, indicates a pattern of bad faith conduct. This pattern suggests an ongoing effort to exploit the Complainant's trademarks for illegitimate purposes.

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 held that the use of a domain name for illegal activity, here claimed as the sale of counterfeit goods, or at least an illegitimate offer for sale of the Complainant's goods, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. The Panel notes that the Respondent has not appeared in this proceeding to contest the Complainant's assertions regarding counterfeiting. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 name <fearofgoditalia.com> be transferred to the Complainant.

/Eva Fiammenghi/

Eva Fiammenghi

Sole Panelist

Date: June 18, 2024