

## **ADMINISTRATIVE PANEL DECISION**

**FRANKIE SHOP LLC v. Peter Pfeiffer, Monika Austerlitz, Stefan Koertig**  
Case No. D2024-2679

### **1. The Parties**

The Complainant is FRANKIE SHOP LLC, United States of America (“United States”), represented by Coblenca Avocats, France.

The Respondent is Peter Pfeiffer, Monika Austerlitz, Stefan Koertig, Germany.

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

The disputed domain names <thefrankieshop-canada.com>, <thefrankieshop-italia.com>, <thefrankieshop-polska.com>, and <thefrankieshopuk.co> are registered with Dynadot Inc (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 1, 2024. On the same day the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 3, 2024, 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 (“Redacted for Privacy”) and contact information in the Complaint.

The Center sent an email communication to the Complainant on July 3, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amendment to the Complaint on July 4, 2024.

The Center verified that the Complaint together with the amendment to 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 July 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 29, 2024.

The Center appointed Ada L. Redondo Aguilera as the sole panelist in this matter on July 30, 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 company FRANKIE SHOP LLC specializes in the sale of clothing, accessories (leather goods, jewelry, etc.), women's shoes, and cosmetics under the brand THE FRANKIE SHOP and other brands across the world including notably New Zealand, the United Kingdom, the European Union, Canada, Switzerland, Australia, South-Africa, United Arab Emirates, Israel, Türkiye, Brazil, Argentina, Kuwait, Chile, Japan, Peru, Mexico, Colombia, Uruguay, through the websites associated with the domain name <thefrankieshop.com>.

The Complainant is the owner of the trademark THE FRANKIE SHOP worldwide including notably:

- The word International trademark registration THE FRANKIE SHOP no. 1648994, designating numerous jurisdictions including the European Union, registered on October 12, 2021 in classes 3, 4, 9, 14, 18, 25, and 35;
- The French trademark THE FRANKIE SHOP no. 4762800, filed on May 4, 2021 in classes 3, 4, 9, 14, 18, 25, and 35;
- The United States trademark THE FRANKIE SHOP no. 7028712, registered on April 18, 2023 in class 35.

The Complainant contends that it has been using the signs “THE FRANKIE SHOP” and “FRANKIE SHOP” as a company name since 2015 and 2017, respectively.

The Complainant is also the owner of several domain names incorporating the FRANKIE SHOP trademark, such as the domain name <thefrankieshop.com>, registered on September 17, 2014.

The disputed domain names are the following:

<b>Disputed Domain Names</b>	<b>Registration Date</b>
<thefrankieshop-canada.com>	June 3, 2024
<thefrankieshop-italia.com>	June 4, 2024
<thefrankieshop-polska.com>	June 4, 2024
<thefrankieshopuk.co>	June 3, 2024

All the disputed domain names redirect to identical content, websites indicating that the Internet user is unable to access said websites.

#### 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 names.

Notably, the Complainant contends the following:

That the disputed domain names are confusingly similar to its trademark THE FRANKIE SHOP, and to its official domain names.

That the Respondents have no rights or legitimate interests in respect of the disputed domain names, nor are related in any way to the Complainant. Neither license nor authorization has been granted to the Respondents to make any use of the Complainant's trademark THE FRANKIE SHOP or apply for registration of the disputed domain names.

That the Respondents have not made any legitimate, noncommercial or fair use of the disputed domain names except to create a likelihood of confusion with the Complainant's trademark.

The disputed domain names were registered and have been used in bad faith. According to the Complainant the websites displayed at the disputed domain names are inactive.

Finally, the Complainant has requested the Panel to issue a decision ordering the transfer of the disputed domain names to the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **A. Consolidation: Multiple Respondents**

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain names registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See [WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition \("WIPO Overview 3.0"\)](#), section 4.11.2. As regards common control, the Panel notes that, as seen above: (i) all of the disputed domain names share the same naming pattern (reproducing the Complainant's trademark THE FRANKIE SHOP in its entirety with the addition of a hyphen and/or geographic terms); (ii) the disputed domain names were registered in very close dates, June 3 and 4, 2024; (iii) all disputed domain names were registered through the same Registrar; (iv) the disputed domain names resolve to websites indicating that the Internet user is unable to access said websites; and, (v) the email addresses associated to the domain name registrants are all composed of the same structure, letters followed by numbers, and share the same server, "@yeah.net". As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

## **B. 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 Panel finds the mark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of a hyphen or other terms such as "canada", "italia", "polska", and "uk" 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 names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Moreover, the ".com" generic Top-Level Domain ("gTLD") is viewed as a standard registration requirement and is generally disregarded under the first element of the confusing similarity test, as set forth in section 1.11.1 of [WIPO Overview 3.0](#).

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

## **C. 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 of the Respondent lack of 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 Complainant has claimed not to have authorized, licensed, or permitted the Respondent to register or use the disputed domain names or to use the trademark THE FRANKIE SHOP, nor is there any other evidence in the file suggesting that the Respondent has or could have rights or legitimate interests in the disputed domain names. Likewise, it does not seem that the Respondent is making any legitimate noncommercial or fair use of the disputed domain names. On the contrary, the disputed domain names resolve to websites indicating that the Internet user is unable to access said websites, which is not considered a fair use of the disputed domain names. Furthermore, the Panel considers that the composition of the disputed domain names carries a risk of implied affiliation with the Complainant. See the [WIPO Overview 3.0](#), section 2.5.1.

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

#### **D. 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 Complainant has submitted evidence to support that the trademark THE FRANKIE SHOP is well known and was registered and used many years before the Respondent registered the disputed domain names. The disputed domain names clearly and recognizably incorporate the entirety of the Complainant's trademark THE FRANKIE SHOP. It is important to mention that the clothing brand itself, is extremely particular and recognized worldwide for their oversized clothing, nude colors, and their staple piece, the oversized "boyfriend" blazer. Both the founder and the clothing brand have been featured on multiples "VOGUE" magazines, where many writers have highlighted their unique clothes, that now a days are desired by many people, making their market extremely vulnerable to scams or resales. Therefore, the Panel is satisfied that the Respondent must have been aware of the Complainant and the Complainant's trademark THE FRANKIE SHOP when it registered the disputed domain names. Consequently, and in accordance with section 3.1.4 of [WIPO Overview 3.0](#), the Panel considers that the inclusion of the Complainant's trademark in its entirety in the disputed domain names creates a presumption that the disputed domain names were registered in bad faith.

The disputed domain names resolve to websites indicating that the Internet user is unable to access said websites, see the section 3.3 of [WIPO Overview 3.0](#). The fact that the disputed domain names seem not to be in use, does not prevent a finding of bad faith under the doctrine of passive holding in the circumstances of this case. See also *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes: (i) the distinctiveness or reputation of the Complainant's trademark; (ii) the composition of the disputed domain names; (iii) the absence of an explanation from the Respondent regarding the registration and use of the disputed domain names, and; (iv) the use of apparently incomplete contact information by the Respondent while registering the disputed domain name, resulting in the inability of the courier to deliver the Center's written notice, and finds that in the overall circumstances of this case and the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy.

The Panel finds the third element of the Policy has been 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 names <thefrankieshop-canada.com>, <thefrankieshop-italia.com>, <thefrankieshop-polska.com>, and <thefrankieshopuk.co> be transferred to the Complainant.

*/Ada L. Redondo Aguilera/*

**Ada L. Redondo Aguilera**

Sole Panelist

Date: August 13, 2024