

## **ADMINISTRATIVE PANEL DECISION**

Fear of God, LLC v. Torsten Hofman  
Case No. D2024-3535

### **1. The Parties**

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

The Respondent is Torsten Hofman, Germany.

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

The disputed domain name <fearrofgod.com> is registered with IONOS SE (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on August 30, 2024. On September 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 3, 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 named Respondent (Privacy service provided by IONOS SE) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 12, 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 amendment to the Complaint in English on September 12, 2024.

On September 12, 2024, the Center informed the Parties in German and English, that the language of the registration agreement for the disputed domain name is German. On September 15, 2024, the Complainant submitted the Complaint translated into German. However, on September 16, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

The Center verified that the Complaint together with the amendment to the Complaint and the translated 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 September 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 15, 2024.

The Center appointed Peter Burgstaller as the sole panelist in this matter on October 21, 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 high-end designer launched in 2011 and designs cutting edge luxury streetwear and accessories sold in designer and luxury outlets throughout the world (Annex 5 to 7 to the Complaint).

The Complainant owns several trademark registrations containing the mark FEAR OF GOD around the world, inter alia

- U.S. trademark registration for FEAR OF GOD (word), Reg. No. 5,696,924, registered March 12, 2019;
- European Union trademark registration for FEAR OF GOD (word), Reg. No. 17806175, registered June 20, 2018;
- United Kingdom trademark registration for FEAR OF GOD (word), Reg. No. UK00917806175, registered June 20, 2018; and
- International trademark registration for ESSENTIALS FEAR OF GOD (word), Reg No. 1578241, registered December 11, 2020, designated for several countries around the world (Annex 8 to the Complaint).

The Complainant furthermore owns the domain name <fearofgod.com> which addresses its website with offers of FEAR OF GOD branded products for purchase (Annex 5 to the Complaint).

The disputed domain name was registered on July 27, 2024 (Annex 1 to the Complaint). At the time of filing the Complaint the disputed domain name resolved to a website, labeled "Fear of God", which prominently displayed clothing branded with the Complainant's FEAR OF GOD (and ESSENTIALS FEAR OF GOD) marks and original photos from the Complainant's website (Annex 2 and 5 to the Complaint).

#### **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.

Notably, the Complainant contends that the FEAR OF GOD trademark is distinctive and well known in the field of high-end designer lifestyle brand items. The Complainant notes that the disputed domain name contains the FEAR OF GOD trademark almost in its entirety, simply adding an "r" in the word "fear". The Complainant submits that it is therefore inconceivable that the Respondent would not have been aware of the Complainant's trademark when registering the disputed domain name, or that there would be any legitimate use for the disputed domain name. Further, the Complainant has never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the FEAR OF GOD trademark in any manner.

The Complainant notes that the disputed domain name is actively used for selling the Complainant's branded products through a web shop, available on a website branded with the Complainant's distinctive and well-known trademark, containing original photos from the Complainant's website, and addressed by the disputed domain name.

Hence, the Complainant contends, that based on the totality of these factors, it is clear that the Respondent is acting in bad faith with the intent to create a likelihood of confusion with the Complainant's mark and legitimate e-commerce website.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **Preliminary issue: Language of the Proceeding**

The language of the Registration Agreement for the disputed domain name is German. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English; the Complainant submitted a German translation of the Complaint to the Center on September 15, 2024. However, the Complainant requested that the language of the proceeding be English for several reasons, including the fact

- the Respondent's contact is an address in the U.S. (Annex 2 to the Complaint);
- the disputed domain name resolved to a website with content in English language (Annex 2 to the Complaint).

The Respondent did not make any specific submissions with respect to the language of the proceeding; in fact, the Respondent did not respond at all.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both Parties, taking into account all relevant circumstances of the case, including matters such as the Parties' ability to understand and use the proposed language, time and costs. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

### **Substantial issues:**

According to paragraph 4(a) of the Policy, 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 with respect to the disputed domain name; and
- (iii) the disputed domain name has been registered and is 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 name. [WIPO Overview 3.0](#), section 1.7.

The Complainant submitted evidence, which incontestably and conclusively establishes rights in the mark FEAR OF GOD.

In the present case the disputed domain name <fearofgod.com> is confusingly similar to the FEAR OF GOD mark in which the Complainant has rights since it only adds the letter "r" to the word "fear".

It has long been established under UDRP decisions that a misspelling of a trademark, here, the mere addition of a letter, does not prevent a finding of confusing similarity under the first element of the Policy because the relevant trademark remains recognizable within the disputed domain name ([WIPO Overview 3.0](#), section 1.9).

Finally, it has also long been held that generic Top-Level Domains ("gTLDs") are generally disregarded when evaluating the confusing similarity between a disputed domain name and a trademark. [WIPO Overview 3.0](#), section 1.11.

Based on the available record, 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.

While 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 often impossible 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. 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 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, since it has never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the FEAR OF GOD trademark in any manner. The Respondent did not reply and hence has not rebutted the Complainant's contentions.

Further, the Complainant focuses on the fact that its trademark is distinctive and well known in the field of high-end designer lifestyle brand and cutting edge luxury streetwear and accessories; moreover, the trademark FEAR OF GOOD is distinctive and registered in a variety of jurisdictions around the world and provides suitable evidence of its reputation, adding that it is inconceivable that the Respondent would not have been aware of this when registering the disputed domain name. Moreover, given the composition of the disputed domain name, adding an additional "r" to the Complainant's trademark, coupled with the use of the disputed domain name to resolve to a website in which the Respondent tries to impersonate the Complainant and supposedly sell the Complainant's branded-goods affirms Respondent's intention of taking unfair advantage of the inherent confusion between the typosquatting disputed domain name and the Complainant as to the origin or affiliation of the website at the disputed domain name.

Based on the available record, the Panel finds the second element of the Policy has been established.

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

As stated in many decisions rendered under the Policy both conditions, registration and use in bad faith, must be demonstrated; consequently, the Complainant must show that:

- the disputed domain name was registered by the Respondent in bad faith, and
- the disputed domain name is being used by the Respondent in bad faith.

(i) The Complainant has established rights in the registered trademark FEAR OF GOD, long before the registration of the disputed domain name. Further, the trademark FEAR OF GOD is distinctive and is well known in the field of high-end designer lifestyle brand and cutting edge luxury streetwear and accessories. The disputed domain name resolved to a website where products were offered by using the Complainant's product photos, product names, and the FEAR OF GOD (and ESSENTIALS FEAR OF GOD) trademarks.

It is therefore inconceivable for this Panel that the Respondent has registered and used the disputed domain name without knowledge of the Complainant's rights, which leads to the necessary inference of bad faith. This finding is supported by the fact that the disputed domain name incorporates the Complainant's distinctive registered trademark almost entirely, together with an obvious and intentional misspelling of the Complainant's FEAR OF GOD mark.

All of these facts indicate that the Respondent must have been aware of the Complainant's business and trademark when registering the disputed domain name.

Therefore, the Panel is convinced that the disputed domain name was registered in bad faith by the Respondent.

(ii) The Complainant put forward evidence that the disputed domain name resolved to a website which contained the Complainant's registered trademark, and where products were offered using the product images and names from the Complainant's website.

In doing so, the Respondent intentionally attempted to attract Internet users to its website for commercial gain, by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation or endorsement of its website according to paragraph 4(b)(iv) of the Policy – this constitutes bad faith registration and use of the disputed domain name.

Based on the available record, 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 <fearrofgod.com> be transferred to the Complainant.

*/Peter Burgstaller/*

**Peter Burgstaller**

Sole Panelist

Date: October 29, 2024