

ADMINISTRATIVE PANEL DECISION

Fruit Of The Loom, Inc. v. Hollenbeck Maxine, fumin liu, you fei and danpi li
Case No. D2024-3738

1. The Parties

The Complainant is Fruit Of The Loom, Inc., United States of America (“United States”), represented by CSC Digital Brand Services Group AB, Sweden.

The Respondents are Hollenbeck Maxine, United States, fumin liu, China, you fei, China and danpi li, China.

2. The Domain Names and Registrars

The disputed domain names <bestformlingerie-fr.com>, <fr-bestformlingerie.com> and <lingeriebestformfr.com> are registered with Dynadot Inc.

The disputed domain name <bestformlingeriefr.com> is registered with Gname.com Pte. Ltd. (all together the “Registrars”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 13, 2024. On September 16, 2024, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On September 17, 2024, the Registrars transmitted by email to the Center their 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 September 18, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, 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 amended Complaint on September 20, 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 Respondents of the Complaint, and the proceedings commenced on September 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 13, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on October 15, 2024.

The Center appointed Rodrigo Azevedo 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 BESTFORM brand is owned by Vanity Fair, Inc., a wholly owned subsidiary of the Complainant Fruit of the Loom, Inc.

The Complainant’s BESTFORM brand is used in connection with the production and commercialization of affordable intimates for women (lingerie), since 1924.

The Complainant owns a large portfolio of BESTFORM trademarks in various jurisdictions, including the United States Trademark Registration (“USPTO”) No. 920260, registered on September 14, 1971.

The disputed domain names were registered by the Respondents on the following dates:

Disputed domain name	Respondent	Registration Date
<bestformlingerie-fr.com>	fumin liu	April 30, 2024
<bestformlingeriefr.com>	Hollenbeck Maxine	February 28, 2024
<fr-bestformlingerie.com>	you fei	June 18, 2024
<lingeriebestformfr.com>	danpi li	June 17, 2024

The Panel accessed the disputed domain names on October 26, 2024, when <bestformlingeriefr.com>, <fr-bestformlingerie.com> and <lingeriebestformfr.com> were not pointing to any active website, presenting just error messages. Differently, the disputed domain name <bestformlingerie-fr.com>, was linked to a webstore reproducing the Complainant’s copyrighted promotional materials, as well as the BESTFORM brand and logo, purportedly offering BESTFORM products.

The Complainant brought evidence that the disputed domain names <bestformlingeriefr.com>, <fr-bestformlingerie.com> and <lingeriebestformfr.com> were also recently linked to the same e-commerce website, also reproducing the Complainant’s trademark, logo and copyrighted materials.

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 states that:

The disputed domain names are under common control. The disputed domain names were registered within a few months of each other and share the same or similar composition: the Complainant's BESTFORM trademark paired with the related terms "lingerie" and "fr" (abbreviation for France), with and without hyphens. Prior to the Complainant's partners taking action on <lingeriebestformfr.com>, the disputed domain names all resolved to the same contents. All four domain names utilize Cloudflare name servers and all four named entities are using generic email domain names designed to maintain users anonymity.

- The disputed domain names are identical or confusingly similar to a trademark in which the Complainant has rights. By virtue of its trademark and service mark registrations, the Complainant is the owner of the BESTFORM trademarks. It is standard practice when comparing a disputed domain name to the Complainant's trademarks, to not take the Top-Level-Domain ("TLD") into account. In creating the disputed domain names, the Respondent has added the descriptive terms "lingerie" and "fr" to the Complainant's BESTFORM trademark, thereby making the disputed domain names confusingly similar to the Complainant's trademark. Further, the term "lingerie" is closely linked and associated with the Complainant's brand and trademark, that its use only serves to underscore and increase the confusing similarity between the disputed domain names and the Complainant's trademark. In addition, the disputed domain names add the geographical term "fr", an abbreviation for France and it is well established that the addition of a geographic term or place name does not alter the underlying trademark or negate the confusing similarity. Finally, the Respondent's addition of hyphens to the disputed domain names <bestformlingerie-fr.com> and <fr-bestformlingerie.com> does nothing to distinguish the disputed domain names from the Complainant's trademarks.

- The Respondent has no rights or legitimate interests in respect of the disputed domain names. The Complainant holds multiple registrations for the BESTFORM trademark across various jurisdictions, including the USPTO, Canadian Intellectual Property Office ("CIPO"), French Industrial Property Institute ("FR-INPI"), United Kingdom Intellectual Property Office ("UKIPO"), European Union Intellectual Property Office ("EUIPO"), and China National Intellectual Property Administration ("CNIPA"), establishing its ownership and exclusive rights to the mark. The Respondents are neither affiliated with nor authorized by the Complainant and have not been given permission to use the Complainant's trademarks, including in the disputed domain names. Additionally, the Respondents are not commonly known by the disputed domain names, which suggests a lack of legitimate interests. The Respondents' use of privacy services in the WHOIS information and the absence of any evidence that the Respondents are known by the disputed domain names further indicate that the Respondents lack legitimate interests. The Respondents' use of the disputed domain names is intended to mimic the Complainant's brand, as the websites incorporate the Complainant's BESTFORM trademark, logotype, stylized "B" symbol, and similar color schemes. This conduct reflects "passing off" and is neither a bona fide offering of goods and services nor a fair use, as it seeks to capitalize on the Complainant's established goodwill. Moreover, the Respondents have used the disputed domain names to offer products branded with the Complainant's marks without authorization, which could mislead users into believing the products are genuine or authorized by the Complainant. Panels have consistently held that selling competing or counterfeit goods through a confusingly similar domain name is not a legitimate use under the Policy. Currently, one disputed domain name, <lingeriebestformfr.com>, resolves to a blank page, demonstrating the Respondents' lack of intent to use it for legitimate purposes. The Respondents registered these disputed domain names well after the Complainant's trademarks and the disputed domain names had been in use, indicating that the Respondents' registrations were likely intended to exploit the Complainant's established reputation and brand presence.

- The disputed domain names were registered and are being used in bad faith. The Complainant has established a well-known brand with the BESTFORM trademark, registered across multiple jurisdictions, and has used it extensively since 1967. The Respondents registered the disputed domain names incorporating the Complainant's trademark, adding terms like "lingerie" and "fr", creating a likelihood of confusion with the Complainant's established brand. The Respondents' actions indicate awareness of the Complainant's trademark, particularly as the disputed domain names closely mimic the Complainant's official domain names, such as <bestform-lingerie.com> and <bestform.com>. This suggests an intent to capitalize on the Complainant's reputation. The Respondents' websites prominently display the Complainant's BESTFORM trademark, logo, and similar branding elements, selling products branded with the Complainant's stylized

“B” symbol. These products may be unauthorized, and potentially counterfeit, which misleads consumers into believing an association with the Complainant. The Respondents’ actions disrupt the Complainant’s business by attracting users to these websites under false pretenses for commercial gain, constituting bad faith. Moreover, the Respondents used privacy services to obscure their identity, a tactic often viewed as evidence of bad faith in domain disputes. The Respondents’ registration of the disputed domain names postdates the Complainant’s trademarks by decades, further supporting the inference of intentional targeting. Therefore, the Respondents’ actions likely constitute both bad faith registration and use of the disputed domain names.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of the disputed domain names, the Complainant shall prove the following three elements:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondents have 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. Preliminary Procedural Issue - Consolidation of Multiple Respondents

The Complainant requests the consolidation of the multiple Respondents in this single Complaint.

Paragraph 3(c) of the Rules states that “The complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder”. For this assessment, Paragraph 10(e) of the Rules states that “A Panel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules”.

Thus, it is for the Panel to decide, in the light of the evidence produced and the submissions made, whether the disputed domain names in this case are registered by the same domain name holder. As demonstrated in a number of previous cases under the Policy, the question of whether the respective disputed domain names are in fact registered by the same holder, directly or indirectly, may be less than straightforward to answer. See *Valeant Pharmaceuticals International, Inc. / Inova Pharmaceuticals (Australia) Pty Limited v. Luca Radu / Fundacion Private Whois / Maxim Conovalov / Vasju Pere*, WIPO Case No. [D2013-1918](#).

The WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), with reference to consolidation at section 4.11.2, includes the following considerations: “Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario.

Panels have considered a range of factors, typically present in some combination, as useful to determining whether such consolidation is appropriate, such as similarities in or relevant aspects of (i) the registrants’ identity(ies) including pseudonyms, (ii) the registrants’ contact information including email address(es), postal address(es), or phone number(s), including any pattern of irregularities, (iii) relevant IP addresses, name servers, or webhost(s), (iv) the content or layout of websites corresponding to the disputed domain names, (v) the nature of the marks at issue (e.g., where a registrant targets a specific sector), (vi) any naming patterns in the disputed domain names (e.g., <mark-country> or <mark-goods>), (vii) the relevant language/scripts of the disputed domain names particularly where they are the same as the mark(s) at issue,

(viii) any changes by the respondent relating to any of the above items following communications regarding the disputed domain name(s), (ix) any evidence of respondent affiliation with respect to the ability to control the disputed domain name(s), (x) any (prior) pattern of similar respondent behavior, or (xi) other arguments made by the complainant and/or disclosures by the respondent(s).”

The Panel considers that the consolidation of the multiple Respondents is possible in the present case.

Effectively, the Complainant brought evidence that the disputed domain names recently presented the same content. Also, they present a similar pattern of composition, adding the term “lingerie” plus the acronym “fr” to the Complainant’s BESTFORM brand, sometimes also adding a hyphen. In addition, the registration dates were all very close .

Thus, despite the differences in some of the information provided in the registration of the disputed domain names, the elements mentioned above are sufficient to convince this Panel that the disputed domain names are subject to common control, justifying the consolidation of the respective multiple Respondents (referred all together hereinafter to as “the Respondent”).

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 3.0](#), section 1.7.

Annex 1 to the Complaint shows registrations of BESTFORM trademarks obtained by the Complainant in numerous jurisdictions, as long as in 1971.

Based on the available record, the Panel finds 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 trademark BESTFORM is wholly encompassed within the disputed domain names, together with the following additions:

Domain name	Additions
<bestformlingerie-fr.com>	“lingerie”, “-” and “fr”
<fr-bestformlingerie.com>	“fr”, “-” and “lingerie”
<lingeriebestformfr.com>	“lingerie” and “fr”
<bestformlingeriefr.com>	“lingerie” and “fr”

All the disputed domain names also present the generic Top-Level-Domain (“gTLD”) “.com”.

Although the addition of symbols and other words or geographic indicators may bear on assessment under 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.

It is also well established that the addition of a gTLD, such as “.com”, is typically disregarded when determining whether a domain name is confusingly similar to a complainant’s trademark as such is viewed as a standard registration requirement. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, the Panel finds that the disputed domain names are confusingly similar to the Complainant’s trademark and that 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 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 no indication that the Respondent is commonly known by the disputed domain names.

Also, the Complainant has asserted that the Respondent is not authorized, nor have obtained any permission for such reproductions of the Complainant’s trademarks.

Besides the hyphen symbol in <bestformlingerie-fr.com> and <fr-bestformlingerie.com>, the disputed domain names are basically formed by the Complainant’s mark BESTFORM together with terms related to (i) the Complainant’s main product (“lingerie”) and (ii) to a country in which the Complainant’s operates (“fr”, a common acronym for “France”). Therefore, these additions may suggest to Internet users that the disputed domain names are official BESTFORM webstores for women intimates in France, which is not true.

Therefore, the Panel finds that the nature of the disputed domain names carries a risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

Panels have held that the use of a domain name for illegitimate activity (here, claimed impersonation/passing off) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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

D. Registered and Used in Bad Faith

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.

The disputed domain names include the trademark BESTFORM entirely. According to the [WIPO Overview 3.0](#), section 3.1.4, UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

The Complainant has been using the BESTFORM trademark for several decades for selling lingerie, including in France. Therefore, the Panel considers that the addition of the terms “lingerie” and “fr” to the disputed domain names may even enhance the perception that the disputed domain names are sponsored or endorsed by the Complainant, as they suggest to be official French webstores for BESTFORM lingerie,

operated by the Complainant or by an authorized online representative.

The contents at the websites recently published in connection with the disputed domain names mimic the Complainant's official website and include reproductions of the Complainant's BESTFORM brand and logo.

Therefore, the Panel concludes that it is not feasible that the Respondent was not aware of the Complainant's trademark and that the registration of the disputed domain names – with such additions – were mere coincidences.

The Complainant does not recognize as originals the products offered for sale on the websites linked to the disputed domain names, nor has authorized the Respondent's use of its brand there.

These circumstances suggest that the Respondent is intentionally attempting to attract, through the registration and use of the disputed domain names together with such descriptive terms, the Complainant's customers, for commercial gain, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website.

From the Panel's search, some of the disputed domain names do not currently resolve to any active website.

However, UDRP panels have frequently found that the apparent lack of so-called active use of the domain name (passive holding) does not prevent a finding of bad faith. See [WIPO Overview 3.0](#), section 3.3; *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); and *Polaroid Corporation v. Jay Strommen*, WIPO Case No. [D2005-1005](#).

The following facts ., (a) the current passive holding of the said disputed domain names, (b) the Respondent's failure to provide a response indicating any intention to use them, and (c) the absence of justifications for the use of a famous third party trademark, (d) the lack of any plausible interpretation for the adoption of the terms "bestformlingerie-fr", "bestformlingeriefr", "fr-bestformlingerie.com" and "lingeriebestformfr" by the Respondent, and (e) the evidence provided by the Complainant's demonstration of previous uses of the disputed domain names in bad faith, are enough in this Panel's view to characterize bad faith registration and use in the present case.

Therefore, having reviewed the record, the Panel finds the registration and use of the disputed domain names constitute 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 names <bestformlingerie-fr.com>, <bestformlingeriefr.com>, <fr-bestformlingerie.com> and <lingeriebestformfr.com> be transferred to the Complainant.

/Rodrigo Azevedo/

Rodrigo Azevedo

Sole Panelist

Date: November 5, 2024