

ADMINISTRATIVE PANEL DECISION

Maesa LLC v. Jia Jun
Case No. D2024-3913

1. The Parties

The Complainant is Maesa LLC, United States of America (“United States”), represented by Dorf Nelson & Zauderer LLP, United States.

The Respondent is Jia Jun, China.

2. The Domain Name and Registrar

The disputed domain name <finery-perfume.com> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 24, 2024. On September 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 26, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 September 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 21, 2024.

The Center appointed David Taylor as the sole panelist in this matter on November 5, 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

Since 2022, the Complainant has been engaged in the development of fragrances and beauty products, sold exclusively through Target retail stores and via the Internet via the website “www.target.com”.

For use in connection with its products, the Complainant has registered trademarks for FINE’RY including:

- United States Trademark Registration No. 7147298, FINE’RY, registered on August 22, 2023; and
- International Trademark Registration No. 1795788, FINE’RY, registered on April 24, 2024.

The Complainant’s product line bears such names as “Pistachio Please”, “The New Rouge”, “Flower Bed”, and “Sweet on the Outside”.

The disputed domain name was registered on May 17, 2024. The disputed domain name resolves to a website (the “Respondent’s website”) displaying the Complainant’s FINE’RY trademark in the top-left corner of the page, in the same typeface as it appears on the Complainant’s products, and the website is titled “Finery Perfume Official Website”. The Respondent’s website purports to offer for sale fragrances bearing the Complainant’s trademark and product names, including all of those listed above. The Respondent’s website displays images of the Complainant’s products.

On August 1, 2024, the Complainant’s authorized representatives sent a cease-and-desist letter to the Respondent, via post and email, putting the Respondent on notice of the Complainant’s trademark rights and requesting, inter alia, transfer of the disputed domain name. The Respondent did not reply to the Complainant’s letter.

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 rights in the FINE’RY trademark and submits that the disputed domain name is confusingly similar to its trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant asserts that the disputed domain name is being used to resolve to a website that displays the Complainant’s FINE’RY trademark as well as images of the Complainant’s products in an effort to impersonate the Complainant.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. The Complainant argues that the Respondent registered the disputed domain name with knowledge of the Complainant’s rights, and has used it to create a false impression of association with the Complainant.

The Complainant requests transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In order to prevail, the Complainant must demonstrate on the balance of probabilities that it has satisfied the requirements of paragraph 4(a) of the Policy:

- (i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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.

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 the FINE'RY trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name comprises the Complainant's FINE'RY trademark in its entirety, altered only by the omission of the apostrophe and the addition of a hyphen followed by the term "perfume". The Panel concludes that these alterations do not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark which remains clearly recognizable in the disputed domain name. [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.

As noted above, the disputed domain name resolves to a website that purports to offer for sale products bearing the Complainant's FINE'RY trademark. The Respondent's website displays product images of the Complainant's products. The Respondent is not known to the Complainant, nor has the Respondent received authorization from the Complainant to sell the Complainant's products or to utilize the Complainant's trademark. Regardless of whether the goods advertised on the Respondent's website are genuine, and assuming that the Respondent is acting as an unauthorized reseller of the Complainant's goods, the Panel notes that the Respondent's website does not accurately and prominently disclose the lack of relationship between the Complainant and the Respondent. [WIPO Overview 3.0](#), section 2.8. Rather, the Respondent's website's nature is such that it is likely to mislead Internet users into believing that the Respondent's website is operated by or otherwise endorsed by the Complainant. Indeed, the Respondent's

website claims to be “Finery Perfume Official Website”. The Panel finds that the Respondent is not using the disputed domain name in connection with any bona fide offering of goods or services pursuant to paragraph 4(c)(i) of the Policy.

Nor is there any evidence that the Respondent is commonly known by a name corresponding to the disputed domain name, independent of the Complainant’s trademark, so as to give rise to any rights or legitimate interests under paragraph 4(c)(ii) of the Policy.

The Respondent’s website is commercial in nature, which does not support a claim of legitimate noncommercial or fair use of the disputed domain name within the meaning of paragraph 4(c)(iii) of the Policy.

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 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.

The Respondent’s knowledge of the Complainant and its rights in the FINE’RY trademark can be inferred from the Respondent’s website, which displays the Complainant’s FINE’RY trademark in a manner that is consistent with its application on the Complainant’s products, as well as displaying various images of the Complainant’s perfume products. In light of the Respondent’s use of the disputed domain name, the Panel concludes that the Respondent registered the disputed domain name with knowledge of the Complainant’s rights, and without authorization to make use of the Complainant’s trademark, with a view to creating a misleading impression of association with the Complainant, thereby acting in bad faith.

The Panel further finds that Internet users seeking the Complainant online are likely to be misled to the Respondent’s website, where products bearing the Complainant’s trademark are offered for sale. The Panel holds that by using the disputed domain name in such a manner, 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 trademark as to the source, sponsorship, affiliation, or endorsement of its website and the goods offered therein, in bad faith pursuant to paragraph 4(b)(iv) of 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 <finery-perfume.com> be transferred to the Complainant.

/David Taylor/

David Taylor

Sole Panelist

Date: November 19, 2024