

## **ADMINISTRATIVE PANEL DECISION**

Schaeffler Technologies AG & Co. KG v. Allen Chen  
Case No. DCO2024-0056

### **1. The Parties**

The Complainant is Schaeffler Technologies AG & Co. KG, Germany, represented by Bardehle Pagenberg Partnerschaft mbB, Germany.

The Respondent is Allen Chen, China.

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

The disputed domain name <fagbearing.co> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 2, 2024. On August 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 6, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 7, 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 on August 7, 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 August 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Parties of the Respondent’s default on September 2, 2024.

The Center appointed Ingrīda Kariņa-Bērziņa as the sole panelist in this matter on September 9, 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 German company manufacturing and marketing ball bearings for sale around the world under the FAG mark, for which the Complainant is the proprietor of numerous trademark registrations, including the following:

- International Trademark Registration No. 262541 for FAG (device mark), registered on November 23, 1962, for goods in classes 3, 4, 6, 7, 8, 9, 11, 12, and 17;
- International Trademark Registration No. 966182 for FAG (word mark), registered on July 25, 2007, for goods in classes 4, 7, 9, and 12;
- International Trademark Registration No. 005562798 for FAG (word mark), registered on November 15, 2007, for goods in classes 4, 7, 9, 12, and 17.

The Complainant has registered numerous domain names incorporating its FAG mark, including <fag-bearing.com>, <fag-bearings.com>, and <fagbearing.co.kr>.

The disputed domain name was registered on September 14, 2022. At the time of the Complaint, it resolved to a website featuring the Complainant's FAG mark stating "FAG Bearings: Online FAG Bearings For Sale!" Links on the website redirected users to a third-party online retailer. The website also contained pay-per-click ("PPC") links. At the time of this Decision, the disputed domain name did not resolve to an active website.

#### **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 states that is part of Schaeffler Group, a listed German family-owned supplier to the automotive and mechanical engineering industries founded in 1946. The group employs over 80,000 people at 180 locations worldwide and its annual turnover exceeds EUR 10 billion. The FAG mark, which was first registered in 1905, is related to the invention of mass production of roller bearings by Friedrich Fischer in 1883. FAG was acquired by Schaeffler in 2001. The Complainant contends that the disputed domain name reflects the FAG mark in its entirety, and the term "bearing" alludes directly to the ball bearing industry. The Complainant has not authorized the Respondent to use the FAG mark. The Respondent's website misleads Internet users into thinking that the Respondent is affiliated with the Complainant, which it is not. Links on the website redirect users to the Amazon website on which FAG-branded goods of possibly counterfeit origin are offered for sale. The website additionally features PPC links.

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

Paragraph 4(a) of the UDRP requires the Complainant to make out all three of the following:

- (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 Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it 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 Complainant’s FAG 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, “bearing”) may bear on assessment of the second and third elements, the Panel finds the addition of such a term 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 Panel finds that the disputed domain name, which reflects the Complainant's FAG mark in its entirety plus the term "bearing", directly referencing the Complainant's business, resolved to a website featuring the Complainant's FAG mark and logo, PPC links, and links to a third-party retailer. Evidence of such activity indicates the Respondent's lack of rights or legitimate interests. Further, there is no evidence that the Respondent has any right to use the Complainant's mark.

Panels have held that the use of a domain name for illegal activity (here, claimed impersonation/passing off, or other types of fraud) 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 finds that the Respondent registered the disputed domain name with the Complainant in mind.. The disputed domain name was registered at least 60 years after the Complainant established rights in its FAG trademark. It reflects the Complainant's mark in its entirety plus a reference to the ball bearing industry in which the Complainant operates, thereby implying a connection to the Complainant. Under these circumstances, the Panel finds that the disputed domain name was registered in bad faith. [WIPO Overview 3.0](#), section 3.1.4.

The record contains evidence that the disputed domain name resolved to a website featuring the Complainant's mark, PPC links, and purporting to offer products identical to those offered by the Complainant. Such conduct is clearly indicative of bad faith use of the disputed domain name as the Respondent intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark. Moreover, Panels have held that the use of a domain name for illegal activity (here, claimed impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. 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 <fagbearing.co> be transferred to the Complainant.

*/Ingrīda Kariņa-Bērziņa/*

**Ingrīda Kariņa-Bērziņa**

Sole Panelist

Date: September 23, 2024