Decision for dispute CAC-UDRP-106995

Case number	CAC-UDRP-106995
Time of filing	2024-11-06 09:36:20
Domain names	fendionlinesale.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	FENDI SRL

Complainant representative

Organization	INSIDERS

Respondent

Name	Jack Sparrow

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of several trademarks for FENDI, inter alia the European Union Trademark FENDI 003500535 registered since August 8, 2005 in several classes, being in effect.

FACTUAL BACKGROUND

The Complainant is a well-known company existing since 1925, with over 215 stores all over the world, where it promotes and offers for sale its products under the trademark FENDI in both physical boutiques and on the website fendi.com.

On the website under the disputed domain name, it is stated at the bottom that it is a “Replica Fendi Outlet Sale Store” offering Fendi fake bags. Also, the FENDI logo is used.

The disputed domain name was registered on December 20, 2021.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

The Complainant, inter alia, contends, that the domain name contains in its entirety the word FENDI, identical to the registered FENDI word mark. “Online-sale”, occurring after the trademark in the domain name, is simply clarifying that sales take place on the website. Such addition does not allow a clear distinction between the registered trademark and the domain name in question, and create a strong likelihood of confusion among the public. The Respondent is not affiliated with the Complainant in any way and was not authorized by the Complainant to use the registered FENDI trademark. The Respondent has no legitimate interest in the domain name in question, since the whois records show no business name that may justify an interest in the domain. The Respondent is also not an authorized FENDI retailer, nor are they commonly known by the disputed domain name – in fact their name is kept private in the WHOIS records. The domain name in question has been both acquired and is being used in bad faith as it features “Fendi” items. It even explicitly states that the website is a “Replica Fendi Outlet Sale Store”. The website to which the domain name resolves was designed to create an appearance of connection with FENDI by copying FENDI logo and using it as its own.

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

A. Identical or Confusingly Similar

The Complainant has established the fact that it has valid trademark rights for „FENDI“ in several countries.

The disputed domain name is confusingly similar to the distinctive FENDI mark of the Complainant since neither the addition of the descriptive term „onlinesale“ nor the TLD .com does prevent a finding of a sufficient confusing similarity.

The Panel therefore considers the domain name to be confusingly similar to the trademark „FENDI“, in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Respondent has no rights in the disputed domain name since the Respondent is not a licensee or an authorised retailer of the Complainant nor has the Complainant granted any permission or consent to the Respondent to use its trademarks. Furthermore, the

Respondent has no legitimate interest in the domain name since there is no indication that the Respondent is commonly known by the name “FENDI” or „FENDIONLINESALE.COM“ nor that the Respondent is using the domain name in connection with a bona fide offering of related goods or services since he states himself that the offered products are fake products.

The Panel therefore finds that the respondent does not have rights or legitimate interests in the domain name.

C. Registered and Used in Bad Faith

The reference to the Complainant on the website under the disputed domain name shows that Respondent was well aware of the Complainant and its trademarks. Furthermore, Respondent used Complainant’s trademarks to offer fake products. The Complainant has not authorized the Respondent to make use of a designation which is identical to its marks. This Panel does not see any conceivable legitimate use that could be made by the Respondent of this particular domain name without the Complainant’s authorization.

The circumstances of this case indicate that the Respondent registered and uses the disputed domain name primarily with the intention of attempting to attract, for commercial gain, Internet users to its potential website or other online locations, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of such website or location, or of a product or service on such website or location. The Panel therefore considers the disputed domain name to have been registered and used in bad faith in accordance with paragraph 4(a)(iii) of the Policy.

The Panel therefore considers the domain name to have been registered and used in bad faith in accordance with paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **fendionlinesale.com**: Transferred

PANELLISTS

Name	**Dietrich Beier**

DATE OF PANEL DECISION 2024-12-11

Publish the Decision