Decision for dispute CAC-UDRP-107864

Case number	CAC-UDRP-107864
Time of filing	2025-08-21 12:00:03
Domain names	fensachile.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	ELECTROLUX DE CHILE S.A

Complainant representative

Organization	SILKA AB

Respondent

Name	Maite Lagos

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 provides evidence of several Chilean trademark registrations.

- Chile Trademark Registration number 1267490 FENSA (device mark), registered on January 27, 2018, in international class 7;
- Chile Trademark Registration number 946134 FENSA (word mark), registered on March 17, 2012, in international class 37;
- Chile Trademark Registration number 945314 FENSA (word mark), registered on March 7, 2012, in international classes 7 and 11.

FACTUAL BACKGROUND

The Respondent appears to be domiciled in Chile. The Disputed Domain Name was registered on July 23, 2025. It has been used to resolve to an impersonating, FENSA-branded website purporting to offer goods competitive to those sold by Complainant. The Disputed Domain Name also has MX records configured. At least one concerned citizen has alerted Complainant to the fact that the Respondent's former website was impersonating Complainant.

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.

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). The Disputed Domain Name reproduces the Complainant's FENSA mark together with the country name "Chile" and the generic Top-Level Domain ("gTLD") ".com". Since the Complainant's FENSA mark is reproduced in full (and it is thus recognizable), it can be concluded that the Disputed Domain Name is confusingly similar to the Complainant's mark for the purposes of the Policy. See also, WIPO Overview 3.0, section 1.8: "Where the relevant trademark is recognizable within the Disputed Domain Name , the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element". Moreover, as the Decision in CAC-UDRP-107608 (concerning the domain name electroluxchile.com) states:

"Although the addition of other terms, here "chile", 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 Complainant's trademark for the purposes of the Policy (WIPO Overview 3.0, section 1.8)."

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). Complainant alleges that:

- The Respondent is not a licensee of the Complainant, and it has not received any consent, permission, authorization or acquiescence from the Complainant to use its FENSA mark in association with the registration of the Disputed Domain Name .

- The Domain Name and the terms "fensa" or "fensachile" have no meaning in English or Spanish languages.

- The Complainant has found nothing to suggest that the Respondent owns any identical trademarks to the Disputed Domain Name or to the term "fensachile" -- and has provided results of the searches carried out on the EUIPO's TM View Brand Database.

- There is no evidence that the Respondent has been commonly known by the Disputed Domain Name or by the term "fensachile".

- The Respondent has not used the Disputed Domain Name in good faith or for a non-commercial activity. Although the Disputed Domain Name is currently inactive, it previously resolved to a website in which the Complainant's registered FENSA device mark was reproduced on top in a prominent manner and where FENSA-branded goods were allegedly offered for sale.

Since the Disputed Domain Name resolved to a website which impersonated the Complainant, it should also be stated that said impersonation can never confer rights or legitimate interests on the Respondent. In this vein, see WIPO Overview 3.0, section 2.13.1, or the Decision in CAC-UDRP-107608:

Furthermore, based on the undisputed evidence provided by the Complainant, the Disputed Domain Name was used for a website in Spanish that impersonates the Complainant by prominently using ELECTROLUX trademark and which contained web shop where various products of the Complainant were allegedly offered for sale at discounted prices. Such behavior of the Respondent represents a type of Internet fraud and previous panels have consistently held that use of a Disputed Domain Name for such purposes cannot be considered as a bona fide offering of goods or services nor as a legitimate noncommercial or fair use of the Disputed Domain Name . In connection with the above, it should be noted that panels have held that the use of a domain name for illegal activity (such as impersonation of the Complainant and passing-off as in this case) can never confer rights or legitimate interests on a respondent (WIPO Overview 3.0, section 2.13.1).

Complainant has met its burden of proof under this element of the Policy, and Respondent has not provided any response. Therefore, the Panel agrees that the Respondent has no legitimate interest in the Disputed Domain Name.

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown that 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). The Disputed Domain Name resolved to a website on which the Complainant's FENSA device mark was reproduced on top and as a favicon, and where FENSA-branded goods were purportedly offered for sale with a discount, without including any prominent note, information or disclaimer pointing out that the owner of the website had no relationship with the Complainant. This use of the Disputed Domain Name misled consumers into thinking that the Disputed Domain Name was associated with one of the Complainant's websites, when it is not the case. Therefore, the Respondent has used without permission the Complainant's FENSA mark in order to intentionally attempt to attract for commercial gain Internet users to its website by creating likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of the web site or goods or services offered on it, which amounts to registration and use in bad faith in accordance with paragraph 4 (b)(iv) of the Policy.

Moreover, panels have repeatedly found that a respondent's activation of MX records, in circumstances where there is a high likelihood of internet-user confusion, is indicative of the respondent's intention to engage in phishing/related illegitimate activities and constitutes evidence of bad faith. See, e.g., Natixis v. Bruno Lancien, WIPO Case No. D2023-4416.

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

The Respondent has used without permission the Complainant's FENSA mark in order to intentionally attempt to attract for commercial gain Internet users to its website by creating likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of the web site or goods or services offered on it, which amounts to registration and use in bad faith in accordance with paragraph 4 (b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **fensachile.com**: Transferred

PANELLISTS

Name	**Mike Rodenbaugh**

DATE OF PANEL DECISION 2025-09-26

Publish the Decision