Decision for dispute CAC-UDRP-108204

Case number	CAC-UDRP-108204
Time of filing	2025-12-04 09:21:50
Domain names	fermobsydney-au.com

Case administrator

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

Complainant

Organization	FERMOB

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Roz Kaldor-Aroni

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 owns various trade mark registrations incorporating its FERMOB mark including French word and device registration 3243498 registered on September 1, 2003 and European trade mark registration 6952758 for the word mark FERMOB which was registered on January 29, 2009.

FACTUAL BACKGROUND

The Complainant based in France has designed and manufactured metal and coloured outdoor furniture since 1989 and markets its furniture in France and internationally under the FERMOB mark. It owns various domain name registrations incorporating its FERMOB mark including <fermob.com> which was registered on December 24, 1996.

The Respondent, based in Australia, registered the disputed domain name on November 24, 2025. The disputed domain name resolves to an inactive website.

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).

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

The Complainant has demonstrated that it owns registered trade mark rights in the FERMOB mark as set out above. The disputed domain name wholly incorporates the FERMOB mark and is therefore confusingly similar to it. The Panel agrees with the Complainant that the inclusion in the disputed domain name of the geographic terms "sydney" and "au" does not prevent a finding of confusing similarity.

The Complainant has asserted that the Respondent has no rights or legitimate interests in the disputed domain name and is not related in any way to the Complainant. It has submitted that the Respondent is not known by the disputed domain name, but rather as "Roz Kaldor-Aroni" and that the Complainant does not carry out any activity for, or have any business with the Respondent. Further, the Complainant has confirmed that it has granted neither a licence, nor any authorisation, to the Respondent to make any use of the Complainant’s FERMOB trade mark, or to apply for registration of the disputed domain name. Noting that the disputed domain name is currently inactive, the Complainant has contended that the Respondent did not use the disputed domain name and has no demonstrable plan to use it.

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. Accordingly, the Panel finds that the second element of the Policy has been established.

The Complainant has noted that the disputed domain name was registered some years after the registration of its distinctive FERMOB mark. Considering that FERMOB appears to be a distinctive term with no other meaning and that there is evidence of its use and of international product sales under the mark, it appears to the Panel that it is more than likely that the Australian based Respondent registered the disputed domain name, which also incorporates the geographical terms "sydney" and "au", with knowledge of the Complainant's mark and products.

The Complainant has submitted that the disputed domain name resolves to an inactive site it is not possible to conceive of any plausible current or future use of the disputed domain name which would not be illegitimate.

Panels have found that the non-use of a domain name (including a blank or “coming soon” page) does not prevent a finding of bad faith under the doctrine of passive holding. WIPO Overview 3.0, section 3.3. The Panel notes in this case the distinctiveness of the Complainant’s trade mark and its use for many years, both in France and internationally, which suggests that it enjoys a degree of reputation. Noting the composition of the disputed domain name which includes the terms “Sydney” and “au” and suggests a connection of the FERMOB mark with Australia, the Panel agrees with the Complainant, that there does not appear to be any evidence of a legitimate and plausible current or future use of the mark by the Respondent. The Panel notes further that the

Respondent used a privacy service to mask its identity upon registration and appears to have registered the disputed domain name under a false Australian physical address with a street address in a post code that relates to central Sydney in New South Wales, but with the city and state listed as Melbourne, Victoria. The Panel therefore finds that in the circumstances of this case that the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy and that the third element under the Policy has been established.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **fermobsydney-au.com**: Transferred

PANELLISTS

Name	**Mr Alistair Payne**

DATE OF PANEL DECISION 2026-01-05

Publish the Decision