# Decision for dispute CAC-UDRP-109058

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| Case number | **CAC-UDRP-109058** |
| Time of filing | **2026-10-08 08:00:29** |
| Domain names | **fermob.homes** |

## Case administrator

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

## Complainant

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| Organization | **FERMOB** |

### Complainant representative

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| Organization | **NAMESHIELD S.A.S.** |

## Respondent

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| Name | **jun wu** |

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 relies upon its registered rights in the word and figurative mark, FERMOB, in classes 11, 20 and 21, including:

1. French national trade mark Registration No. 3243498, for the word and figurative mark, filed on 1 September 2003;
2. International Registration No. 829242, for the figurative mark, registered on 1 March 2004 and designated in 12 countries; and
3. European Union trade mark (EUTM) No. 006952758, for the word mark, registered on 29 January 2009.

The Logo mark is highly distinctive, with a little bird on top of the word mark.

The Complainant says it is a mark with a reputation due to its long use in trade.

The Complainant uses the domain name <fermob.com>, which was registered on 24 December 1996.

FACTUAL BACKGROUND

The Complainant is a French manufacturer of furniture, lighting and accessories, known in particular for coloured metal outdoor

furniture.

The disputed domain name <fermob.homes> was registered by the Respondent, Jun Wu, of China, on 28 September 2026.

At the time the Complaint was made, the disputed domain name resolved to a website in French offering furniture items and advertising discounts and free delivery, the FERMOB logo mark was prominently displayed and there was a photograph of outdoor furniture, shopping-cart and search icons, followed by a catalogue page bearing the FERMOB logo mark and listing 67 products.

## 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

Paragraph 4(a) of the Policy requires the Complainant to establish each of the following three elements: (i) the disputed domain name is identical or confusingly similar to a trade mark in which it has rights; (ii) the Respondent has no rights or legitimate interests in the disputed domain name; and (iii) the disputed domain name was registered and is being used in bad faith. The ultimate burden of proof remains with the Complainant. The Panel considers each element in turn.

1. Identical or Confusingly Similar

There is no doubt that the Complainant has registered rights in the word and logo mark, FERMOB. The disputed domain name reproduces the distinctive word mark FERMOB in its entirety and without alteration. The suffix, here the “.homes” gTLD is ordinarily disregarded in assessing the first element of the Policy.

The Panel therefore finds that <fermob.homes> is identical to the Complainant’s FERMOB word mark for the purposes of paragraph 4(a)(i) of the Policy. The first element under the Policy is established.

2. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out non-exhaustive circumstances by which a respondent may establish rights or legitimate interests, including use or demonstrable preparations to use the domain name in connection with a bona fide offering of goods or services before notice of the dispute; being commonly known by the domain name; or legitimate noncommercial or fair use without intent for commercial gain misleadingly to divert consumers.

A complainant must first make a prima facie showing of the absence of rights or legitimate interests, after which the burden of proof shifts to the respondent, although the ultimate burden of proof under the Policy always remains with the complainant to make out the elements of the Policy. See Croatia Airlines d.d. v. Modern Empire Internet Ltd., WIPO Case No. D2003-0455.

Past panels have held that a respondent was not commonly known by a disputed domain name if the WHOIS information was not similar to the disputed domain name. See the Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group. The Respondent is identified in the Complaint as “Jun Wu.” The Respondent is not known by the disputed name in the WHOIS.

The Complainant says it has not licensed or authorized the Respondent to use its FERMOB mark, and there is no commercial relationship between them.

The key issue on the very face of this case is whether the Respondent is making a bona fide offering of goods or services as a reseller and has a legitimate right or interest in doing so for the second element of the Policy. No trade mark owner has the right to absolutely monopolize the resale of second hand or previously lawfully sold goods. This is the limit to, and the exhaustion of, the rights of a trade mark owner. This balances the rights of owners against those of retailers, second hand dealers and consumers and distributors. The rule also protects descriptive uses necessary to indicate the kind, quality or purpose of goods, provided the use is exercised in accordance with honest practices — which encompasses a duty to act fairly in relation to the legitimate interests of the trade mark owner. In UDRP jurisprudence this is reflected in the OKI DATA principles from WIPO Case No. D2001-0903 which provide that a reseller/distributor can make a bona fide offering of goods and services under rule 4(c) (i) of the Policy and have a legitimate interest in a domain name, provided that:

(a) The use involves the actual offering of goods and services in issue;
(b) The site sells only the trade - marked goods;
(c) The site accurately and prominently discloses the registrant's relationship with the trade mark holder;
(d) The Respondent must not try to "corner the market" in domain names that reflect the trademark.

The Policy is very clear that the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. There is no procedure for a default judgment under the Policy. Only once a prima facie case is made out will the evidential burden shift to a respondent.

These factors are applied below.

A. Genuine Goods

The Panel notes the limits of the evidence. The screenshots establish what was displayed but there is no evidence of a test purchase. Nor do we know if any goods were actually sold or delivered, even counterfeit ones, or if any transactions were real and completed or not. This cannot be inferred in the absence of evidence.

It is possible, that the genuine goods may have been sold or placed on the market internationally by the Complainant, whose rights may or may not be exhausted, dependent on the law in the relevant location of the sales. These are what are known as grey goods and their resale can be lawful.

The Panel also notes the extraordinary promotional discounts, including offers described as 90% off. Those claims form part of the inducement to visit or transact on the website. They do not, without evidence of a completed purchase or product examination, prove counterfeiting, non-delivery or phishing.

The Panel is therefore unable to determine conclusively whether the Respondent was offering genuine goods or whether any transactions were completed. For the purposes of the present analysis, the Panel will assume in the Respondent's favour, without deciding, that the goods offered were genuine and that the website constituted an actual offering of those goods.

B. Only the Goods

The exhibited pages appear to offer FERMOB-branded products only. The Panel cannot determine whether other goods were offered elsewhere on the website. It will nevertheless assume in the Respondent's favour, for the purposes of this analysis, that this requirement is satisfied

C. Disclosure

The evidence shows the Respondent displaying the FERMOB logo on the site masthead, offering products under the Complainant’s name and marks and presenting an online shop with a shopping-cart facility, promotional claims and substantial price reductions. The site is not held out or presented as an independent reseller. Its presentation is that of an official FERMOB-branded retail operation.

The third screenshot is especially significant. The “À propos de nous” or “About us” page reproduces, the substance and opening formulation of the corporate description on the Complainant’s official website. This is not holding out as an independent retailer’s own identity nor is it fairly disclosing the relationship with the brand. This is persuasive evidence of deliberate impersonation or appropriation of the Complainant’s corporate identity.

Even if we assumed that the products offered were genuine FERMOB goods, the evidence does not establish the required transparency

for a bona fide reseller. None of the three exhibited pages contains an accurate and prominent statement that the site is independently operated, unauthorised, or unaffiliated with FERMOB.

Use of a logo mark, as opposed to a word mark, is also significant as a logo mark is the exclusive intellectual property of its owner and is often protected by copyright and so its use requires a license. The OKI Data principle recognizes that genuine and nominative fair use of the name of a product may be required to legitimately resell it, but use of the logo mark of another is a step too far in the fair balancing of interests between rightsholders and resellers.

D. Cornering the domain name market

There is no evidence that the Respondent has registered multiple domain names incorporating the FERMOB mark or otherwise attempted to corner the market in such domain names. The Panel therefore makes no adverse finding under this consideration. However, the Oki Data requirements are cumulative, and the Respondent's failure accurately and prominently to disclose its relationship with the Complainant is sufficient to defeat any claim to legitimate reseller use on the evidence presented.

In conclusion, on the evidence, the use is not legitimate noncommercial or fair use. The Panel finds that the Complainant has made out a prima facie case and the Respondent has not come forward to answer it. Accordingly, the Panel finds that the Respondent lacks rights or legitimate interests. The second element of the Policy is established.

3. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy identifies illustrative, non-exhaustive circumstances evidencing registration and use in bad faith. Paragraph 4(b)(iv) applies where a respondent has intentionally attempted to attract Internet users, for commercial gain, to its website by creating a likelihood of confusion with the complainant’s mark as to source, sponsorship, affiliation or endorsement.

The Complainant’s trade mark registrations long predate the Respondent’s registration of the disputed domain name <fermob.homes> in September 2026. The Complainant’s own <fermob.com> domain name was registered in 1996.

The Respondent has selected the precise and distinctive FERMOB mark. The “.homes” gTLD is particularly apt for furniture and home-related products. The site displays the logo mark, not just the word mark, and offers the same products and also reproduces the substance of the Complainant’s corporate description.

The website to which the disputed domain name resolves is designed as a commercial storefront. The screenshots show promotional offers, substantial reductions, product prices, product listings and a shopping cart. The visitor is invited to browse and buy goods on a site carrying the Complainant’s name and logo. The Panel considers that Internet users arriving at <fermob.homes> would be likely to believe they had reached an official FERMOB website or an authorised FERMOB sales channel. The misleading impression arises not merely from the domain name, but from the combination of that name with the content and presentation of the website, including the use of the logo mark. The “About us” page evidence is important as a genuine independent reseller would identify itself, explain that it sells FERMOB products and distinguish its own business from the manufacturer. The Respondent instead uses the Complainant’s corporate story as though it were the site operator’s own story. That choice is inconsistent with any fair legitimate or nominative use of the name and marks and is persuasive evidence of deliberate impersonation.

The very substantial advertised discounts, further reinforce the commercial purpose of the website and its apparent intention to attract prospective purchasers. The Panel does not infer from those offers alone that the goods were counterfeit or that any fraudulent transaction occurred. Such findings are unnecessary. The decisive evidence of bad faith is the Respondent's deliberate use of the Complainant's identity and branding to attract Internet users to a commercial website under the misleading impression that it was operated or authorised by FERMOB.

The Panel finds that the disputed domain name was registered to target the Complainant and free-ride on its goodwill and reputation.

The Complaint also invokes disruption of the Complainant’s business. The Panel need not decide whether the requirements of paragraph 4(b)(iii), are established. The circumstances fall squarely within paragraph 4(b)(iv). Taken cumulatively, the prior and distinctive FERMOB rights, the targeted domain name, the Respondent’s use of the FERMOB logo and collection names, the substantial reproduction of the Complainant’s own corporate description, and the commercial storefront establish both bad-faith registration and bad-faith use.

The Panel therefore finds that the disputed domain name was registered and is being used in bad faith. The third element of the Policy is made out.

For the foregoing reasons, in accordance with paragraph 4(i) of the Policy and paragraph 15 of the Rules, the Panel orders that the disputed domain name <fermob.homes> be TRANSFERRED to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **fermob.homes**: Transferred

## PANELLISTS

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| Name | **Victoria McEvedy** |

DATE OF PANEL DECISION 2026-11-10

Publish the Decision