

## **ADMINISTRATIVE PANEL DECISION**

Freedom Moses Ltd. and Sarah Gurt v. Client Care, Web Commerce Communications Limited and Julius Bergman  
Case No. D2023-2058

### **1. The Parties**

The Complainants are Freedom Moses Ltd. and Sarah Gurt, both in Israel, represented by Soroker Agmon Nordman Pte Ltd, Singapore.

The First Respondent is Client Care, Web Commerce Communications Limited, Malaysia; the Second Respondent is Julius Bergman, France.

The two Respondents above are jointly referred to as the “Respondents”.

### **2. The Domain Names and Registrars**

The disputed domain names <<freedommosesdanmark.com>, <freedommosesnz.com>, <freedommosesphilippines.com>, <freedommosessingapore.com>, <freedommosessouthafrica.com>, <freedommosesnederland.com>, <freedommosesuk.com>, <freedommosesbelgie.com>, <freedommosescanada.com>, and <freedommoses-canada.com> are registered with Alibaba.com Singapore E-Commerce Private Limited (the “First Registrar”).

The disputed domain names <freedommoses-philippines.com> and <freedommoses-singapore.com> are registered with 1API GmbH (the “Second Registrar”).

The two Registrars above are jointly referred to as the “Registrars”.

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 9, 2023. On May 10, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On May 11, 2023, the Second Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names <freedommoses-philippines.com> and <freedommoses-singapore.com> which differed from the named Respondent (Redacted for Privacy) and contact information in the Complaint. On May 11 and 16, 2023, the First Registrar transmitted by email to the Center its verification responses disclosing registrant and contact information for the remaining disputed domain names which differed from the named

Respondent (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 16, 2023 providing the registrant and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on May 21, 2023.

The Center verified that the Complaint together with the amended 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 Respondents of the Complaint, and the proceedings commenced on May 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 12, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on June 13, 2023.

The Center appointed Kathryn Lee as the sole panelist in this matter on June 26, 2023. 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 Complainants are Freedom Moses Ltd, a fashion company established in 2015 specializing in footwear, and Sarah Gurt, its founder and owner (hereinafter, the Complainants will be referred to as the "Complainant"). The Complainant has physical stores in 27 countries including in Belgium, Canada, Denmark, Singapore, South Africa, and the United Kingdom. Its goods are sold in over 1,000 online shopping platforms and online shops including its own official website at "www.freedommoses.com", such as Amazon and Saks Fifth Avenue. Further, the Complainant owns trademark registrations for the FREEDOM MOSES mark in a number of jurisdictions including European Union Registration Number 015971906 registered on February 7, 2017, United Kingdom Registration Number UK00915971906 registered on February 7, 2017, and United States of America Registration Number 6580791 registered on December 7, 2021.

The First Respondent Client Care, Website Commerce Communications Ltd. appears to be an entity with an address in Malaysia. The disputed domain names registered in the name of the First Respondent are:

<freedommosesdanmark.com> - registered on January 12, 2023;  
<freedommosesnz.com> - registered on January 30, 2023;  
<freedommosesphilippines.com> - registered on January 12, 2023;  
<freedommosessingapore.com> - registered on January 12, 2023;  
<freedommosessouthafrica.com> - registered on January 12, 2023;  
<freedommosesnederland.com> - registered on January 12, 2023;  
<freedommosesuk.com> - registered on January 12, 2023;  
<freedommosesbelgie.com> - registered on March 23, 2023;  
<freedommosescanada.com> - registered on January 12, 2023;  
<freedommoses-canada.com> - registered on March 22, 2023.

The Second Respondent Julius Bergman appears to be an individual with an address in France. The disputed domain names registered in the name of the Second Respondent are:

<freedommoses-philippines.com> - registered on March 22, 2023;  
<freedommoses-singapore.com> - registered on March 22, 2023.

The disputed domain name <freedommosesnederland.com> is not linked to any website and does not show

any content, and the other disputed domain names all resolve to websites purportedly selling Freedom Moses branded footwear.

## **5. Parties' Contentions**

### **A. Complainant**

The Complainant contends that the disputed domain names are confusingly similar to the FREEDOM MOSES trademark in which the Complainant has rights. The Complainant explains that the disputed domain names each consists of the Complainant's FREEDOM MOSES trademark and a purely geographical term (*i.e.* "canada", "danmark", "nz" – referring to New Zealand, "philippines", "singapore", "southafrica", "nederlands", "belgie", and "uk" – referring to the United Kingdom) and that the trademark is still clearly recognizable within the disputed domain names.

The Complainant also contends that the Respondents have no rights or legitimate interests in the disputed domain names and confirms that it has not authorized or licensed rights to the Respondents in any respect. The Complainant further contends that 11 disputed domain names are linked to websites that are disguised as belonging to the Complainant and using the Complainant's trademarks in order to sell what the Complainant believes are counterfeit goods. The Complainant asserts that such use cannot be a legitimate noncommercial fair use or a *bona fide* use.

Finally, the Complainant contends that the disputed domain names were registered and are used in bad faith. With respect to registration, the Complainant contends that FREEDOM MOSES is a distinctive mark registered a number of years before the registration of the disputed domain names by the Respondents. As for use, the Complainant contends that the Respondents have linked all but one of the disputed domain names to websites offering Freedom Moses footwear for sale and using essentially the same look and feel of the Complainant's official website. The Complainant asserts that the footwear appears to be counterfeit products based on the prices, and state that they have received messages from Internet users who have purchased products from the website linked to the disputed domain name <freedommosessouthafrica.com> believing they were buying products from the Complainant. The Complainant also states that the fact that the disputed domain names are composed of the trademark and the geographical term gives the impression that each of the disputed domain names is the Complainant's website for the relevant market. Based on these circumstances, the Complainant argues that the Respondents were aware of and targeted the Complainant and its FREEDOM MOSES mark in order to offer counterfeit goods. And lastly, the Complainant states that as of the filing of the Complaint, the disputed domain name <freedommosesnederland.com> did not resolve to any website, but that passive holding does not prevent a finding of bad faith, and given the distinctiveness of the FREEDOM MOSES mark and the lack of any good faith to which the disputed domain name may be put, there is bad faith with respect to this disputed domain name as well.

### **B. Respondent**

The Respondents did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

### **6.1 Procedural Issue – Consolidation of Multiple Domain Names and Respondents**

The Panel finds sufficient reasons to consolidate this case in relation to all the disputed domain names.

According to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2, "where a complaint is filed against multiple respondents, panels look at

whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties”.

Here, the subject Complaint concerns 12 disputed domain names, 10 of which are registered to the First Respondent and the rest registered to the Second Respondent. The facts in this case strongly suggest that all the disputed domain names are subject to common control. Apart from the disputed domain name <freedommosesnederland.com>, all the websites linked to the remaining disputed domain names have essentially the same layout, content, imagery, and font, and the disputed domain names follow the same pattern of “freedommoses” and a country name or country code. Not only that, the disputed domain names were all registered within a couple of months, and the disputed domain names registered to the second Respondent were registered on the exact same day as the disputed domain name <freedommoses-canada.com> that was registered by the First Respondent. And lastly, the First Respondent and the Second Respondent have been named as respondents together in prior UDRP cases (e.g., *Basic Net S.p.A. and Tos S.r.l. v. Julius Bergman, Tim BEICH, and Client Care, Web Commerce Communications Limited*, WIPO Case No. [D2022-0684](#); and *Sebago S.r.l. and Basic Net S.r.l. v. Dong Dou, Kristin SCHWARZ, Client Care, Web Commerce Communications Limited, and Julius Bergman*, WIPO Case No. [D2022-3756](#)).

Considering the above and in the absence of the Respondents’ objection to the Complainant’s consolidation request, the Panel finds that the disputed domain names are subject to common control and that it is proper and fair and also administratively efficient to consolidate the subject Complaint.

## **6.2 Substantive Issues – Three Elements**

### **A. Identical or Confusingly Similar**

The Complainant has demonstrated with supporting evidence that it has rights to the trademark FREEDOM MOSES. As for the disputed domain names, they each consist of the term “freedommoses” combined with a country name or country code. According to the [WIPO Overview 3.0](#), section 1.7, a domain name is considered confusingly similar to a trademark if it “incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name”. In this regard, the disputed domain names incorporate the entirety of the FREEDOM MOSES trademark, and as such, the disputed domain names are confusingly similar to the FREEDOM MOSES trademark. The additional terms do not prevent a finding of confusing similarity (see [WIPO Overview 3.0](#), section 1.8).

For the reasons mentioned above, the Panel finds that the first element has been established.

### **B. Rights or Legitimate Interests**

On the basis of the present record, the Panel finds that the Complainant has made the required allegations to support a *prima facie* case showing that the Respondents have no rights or legitimate interests in the disputed domain name. Once such a *prima facie* case has been established, the burden of production shifts to the Respondents to demonstrate their rights or legitimate interests in the disputed domain names, with the burden of proof always remaining with the Complainant. However, the Respondents in this case have chosen to file no Response to these assertions by the Complainant, and there is no evidence or allegation in the record that would warrant a finding in favor of the Respondents on this point.

Besides, the Respondents has used 11 disputed domain names to purportedly offer for sell the Complainant products without displaying a prominent and accurate disclaimer regarding the relationship between the Complainant and the Respondents. Moreover, the Complainant claims that those products appear to be counterfeits.

In addition, a respondent’s use of a domain name is not considered “fair” if it falsely suggests affiliation with the trademark owner. See [WIPO Overview 3.0](#), section 2.5.1. Here, the dominant element of the disputed domain names corresponds exactly to the Complainant’s mark together with geographical terms, which carries a risk of implied affiliation.

For the reasons provided above, and with no response from the Respondents, the Panel finds that the Respondents have no rights or legitimate interests in the disputed domain name, and that the second element has been established.

### **C. Registered and Used in Bad Faith**

The Panel finds that there is strong and clear evidence to find bad faith in this case.

The websites at the 11 disputed domain names falsely presents itself as the websites of the Complainant, and copies many elements from the Complainant's legitimate website including the images, font, layout, and color scheme, resulting in a substantially similar overall appearance. In addition, these disputed domain names are in the format of the Complainant's trademark plus a country name or country code, so visitors would be misled into believing that they are the country specific websites of the Complainant, and that the goods sold through the websites are genuine Freedom Moses products. Accordingly, the Panel finds that the Respondents has created a likelihood of confusion with the Complainant's trademark and intentionally attempted to attract Internet users to their websites for commercial gain, amounting to registration and use of the disputed domain names in bad faith. Further, given the circumstances, the goods sold on the website at these disputed domain names are most likely counterfeits, and using a domain name in a fraudulent activity is manifestly evidence of bad faith registration and use. See [WIPO Overview 3.0](#), section 3.1.4 and section 3.4.

As for the disputed domain name <freedommosesnederland.com>, it does not currently display any content, but from the inception of the UDRP, UDRP panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. See [WIPO Overview 3.0](#), section 3.3. Considering the distinctiveness of the FREEDOM MOSES mark, the Respondent's failure to submit a formal response or provide any evidence of actual or contemplated good faith use, and the implausibility of any good faith use to which this disputed domain name may be put, not to mention the Respondent's bad faith use of the other disputed domain names, the Panel finds that the Respondent's non-use of the disputed domain name <freedommosesnederland.com> does not prevent a finding of bad faith registration and use.

For the reasons given above, the Panel finds that the third element has been established.

### **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 names <freedommosesbelgie.com>, <freedommoses-canada.com>, <freedommosescanada.com>, <freedommosesdanmark.com>, <freedommosesnederland.com>, <freedommosesnz.com>, <freedommoses-philippines.com>, <freedommosesphilippines.com>, <freedommoses-singapore.com>, <freedommosessingapore.com>, <freedommosessouthafrica.com>, and <freedommosesuk.com> be transferred to the Complainant.

*/Kathryn Lee/*

**Kathryn Lee**

Sole Panelist

Date: July 10, 2023