

## ADMINISTRATIVE PANEL DECISION

Farfetch UK Limited v. 雪林  
Case No. D2023-2628

### 1. The Parties

The Complainant is Farfetch UK Limited, United Kingdom, represented by Gowling WLG (UK) LLP, United Kingdom.

The Respondent is 雪林, China.

### 2. The Domain Name and Registrar

The disputed domain name <farfetch-au.life> is registered with Name.com, Inc. (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 19, 2023. On June 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 20, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 21, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on June 29, 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 Respondent of the Complaint, and the proceedings commenced on July 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 27, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 1, 2023.

The Center appointed Vincent Denoyelle as the sole panelist in this matter on August 15, 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**

Given that no Response was filed, the following facts are based on the submissions in the Complaint and the Annexes to the Complaint.

The Complainant is an e-commerce company operating a digital marketplace focusing on fashion and beauty products. The Complainant is headquartered in London and was established in 2007.

The Complainant is the owner of several trade marks for FARFETCH including the following:

- International trade mark number 1280050 for FARFETCH in classes 9, 35, 36, 39, 41, 42 and 45 registered with effect from February 25, 2015; and
- Indian trade mark 2403105 for FARFETCH in classes 35, 41 and 42 registered with effect from September 28, 2012.

The Complainant is also the owner of domain names reflecting its trade mark including <farfetch.com> and <farfetch.in>.

There is no information known on the Respondent apart from the details as they appear on the Whois record.

The disputed domain name was registered on January 6, 2023.

The disputed domain name does not currently point to an active website and generates an error message. The disputed domain name used to point to a website impersonating the Complainant, including the Complainant's FARFETCH trade mark and inviting Internet users to login or register a new account.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the FARFETCH trade mark in which the Complainant has rights as the disputed domain name incorporates the entire FARFETCH trade mark with the mere addition of the term "-au" which does not prevent the likelihood of confusion between the disputed domain name and the Complainant's trade mark.

The Complainant asserts that the Respondent is not known by the disputed domain name. The Complainant also states that the Respondent does not own any trade mark rights in FARFETCH. The Complainant adds that the Respondent has no relationship with the Complainant or permission to use its trade mark. The Complainant also asserts that it has not consented to associate its FARFETCH mark with the material on the Respondent's website.

The Complainant contends that the Respondent registered the disputed domain name in bad faith as it is impossible for the Respondent to not have known of the Complainant's rights, since the FARFETCH mark is well-known globally and distinctive of the goods and services which are provided to the public under such trade mark. The Complainant then argues that the disputed domain name is used in bad faith.

## B. Respondent

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

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trade mark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the trade mark is reproduced within the disputed domain name.

Accordingly, the disputed domain name is identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of another term here, "-au", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the trade marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

### B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent.

As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, 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 such as those enumerated in the Policy or otherwise.

Here there is no indication that the Respondent is known by the disputed domain name. In addition, the absence of use or the past use of the disputed domain name and associated website to fraudulently impersonate the Complainant cannot qualify as either use of the disputed domain name (or demonstrable plans for such use) with a *bona fide* offering or a legitimate noncommercial fair use.

Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

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

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel finds that the Respondent, at the time of registration of the disputed domain name, must have been aware of the Complainant's trade mark FARFETCH fully reproduced in the disputed domain name given (i) the reputation and goodwill of the FARFETCH trade mark and (ii) the fact that the disputed domain name was registered relatively recently and many years after the registration of the trade mark FARFETCH.

As for use of the disputed domain name, the Complainant has provided evidence of the fact that the disputed domain name used to point to a website impersonating the Complainant, including the Complainant's FARFETCH trade mark and inviting Internet users to login or register a new account. The Complainant has also provided evidence of customer complaints in relation to a fake website impersonating the Complainant but such evidence does not contain any indication that the complaints actually relate to the disputed domain name and the Panel has thus not taken such evidence into account. Still, there is enough evidence to show that the disputed domain name was used to point to a website mimicking the Complainant and seeking to obtain personal data of unsuspecting Internet users and thus to seek to obtain some kind of undue commercial gain.

On this basis, the Panel finds that, as per paragraph 4(b)(iv) of the Policy, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location.

Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

Based on the available record, the Panel finds the third element of the Policy 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 name, <farfetch-au.life>, be transferred to the Complainant.

*/Vincent Denoyelle/*

**Vincent Denoyelle**

Sole Panelist

Date: August 29, 2023