

ADMINISTRATIVE PANEL DECISION

Molton Brown Limited v. Registration Private, Domains By Proxy, LLC / Milen Radumilo

Case No. DCO2022-0059

1. The Parties

Complainant is Molton Brown Limited, United Kingdom, represented by SafeNames Ltd., United Kingdom.

Respondent is Registration Private, Domains By Proxy, LLC, United States of America / Milen Radumilo, United Kingdom.¹

2. The Domain Name and Registrar

The disputed domain name <moltonbrown.co> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 1, 2022. On August 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 2, 2022, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on August 4, 2022 providing the registrant and contact information disclosed by the Registrar and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on August 4, 2022.

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 Respondent of the Complaint, and the proceedings commenced on August 10, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 30, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 31, 2022.

¹ Further references to “Respondent” herein signify the individual respondent Milen Radumilo.

The Center appointed Jeffrey D. Steinhardt as sole panelist in this matter on September 7, 2022. 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

Complainant holds numerous trademark registrations for its MOLTON BROWN family of marks, for example, United Kingdom Trademark Registration No. UK00001173991, registered April 27, 1982 in class 3.

The disputed domain name was registered on February 27, 2020. The website to which the disputed domain name routed at the time these proceedings commenced was used to display pay-per-click links to cosmetic products websites.

5. Parties' Contentions

A. Complainant

Complainant alleges that Respondent has been subject to more than 240 domain dispute decisions, all of which resulted in the transfer of the domain names at issue to the complaining parties (providing an extensive list of the proceedings).

Summarizing its legal contentions, Complainant alleges that (1) the disputed domain name is identical to Complainant's trademarks, (2) Respondent has no rights or legitimate interests in the disputed domain name, and (3) the disputed domain name was registered and is being used in bad faith, all in violation of the Policy.

Complainant also avers that Complainant contacted Respondent February 23, 2022 via an online form on the Registrar's website to attempt to resolve Respondent's use of the disputed domain name. Complainant avers that no response to that communication was received.

On the above grounds, Complainant requests transfer of the disputed domain name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

The Panel renders its Decision on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable. Rules, paragraph 15(a). Complainant must establish each element of paragraph 4(a) of the Policy, namely:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Complainant must establish these elements even if Respondent does not submit a Response. *E.g., The Vanguard Group, Inc. v. Lorna Kang*, WIPO Case No. [D2002-1064](#).

A. Identical or Confusingly Similar

The Panel agrees with Complainant that the disputed domain name <moltonbrown.co> is identical to Complainant's trademarks, as elaborated below.

UDRP panels generally disregard the Top-Level Domain ("TLD") suffix in evaluating identity. *E.g.*, *VAT Holding AG v. VAT.com*, WIPO Case No. [D2000-0607](#); *Shangri-La International Hotel Management Limited v. NetIncome Ventures Inc.*, WIPO Case No. [D2006-1315](#).

The disputed domain name is clearly identical to Complainant's trademarks; omitting the ".co" suffix, the disputed domain name adopts Complainant's MOLTON BROWN trademark in its entirety.

The Panel holds, therefore, that the Complaint fulfills the requirements of Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

The Panel also agrees that Complainant establishes that Respondent has no rights or legitimate interests in respect of the disputed domain name.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances that may demonstrate when a respondent has rights or legitimate interests in the use of a domain name. The list includes:

- (1) the use of the domain name in connection with a *bona fide* offering of goods and services;
- (2) being commonly known by the domain name; or
- (3) the making of a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers.

Complainant must establish a *prima facie* case that Respondent lacks rights or legitimate interests. See *e.g.*, *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#) (citing *De Agostini S.p.A. v. Marco Cialone*, WIPO Case No. [DTV2002-0005](#)). The absence of rights or legitimate interests is established if a *prima facie* case is established and Respondent does not rebut that *prima facie* case.

Complainant avers that Respondent is not affiliated with Complainant, has no authorization to use Complainant's trademarks, and that Respondent is not commonly known by the disputed domain name. The Panel accepts these undisputed allegations.

The use of pay-per-click advertising links on the website to which the disputed domain name routes precludes the possibility that Respondent is making a legitimate noncommercial or fair use. *E.g.*, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 2.9. Complainant also alleges that the advertising links route to third-party commercial products in competition with products offered by Complainant under its marks. If true, such an allegation would preclude any finding of *bona fide* use.

The Panel also finds that because the disputed domain name is identical to Complainant's trademark, any use by Respondent carries a high risk of implied affiliation with Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Complainant establishes a *prima facie* case. Refraining from submitting a response, Respondent has brought to the Panel's attention no circumstances from which the Panel could infer that Respondent has rights or legitimate interests in respect of the disputed domain name.

Therefore, the Panel concludes that the second element of paragraph 4(a) of the Policy is established.

C. Registered and Used in Bad Faith

The Panel finds that the third element of paragraph 4(a) of the Policy, bad faith registration and bad faith use, is also established.

Using a domain name to intentionally attract Internet users, for commercial gain, by creating a likelihood of confusion, may be evidence of bad faith. Policy, paragraph 4(b)(iv). See, e.g., *L'Oréal, Biotherm, Lancôme Parfums et Beauté & Cie v. Unasi, Inc.*, WIPO Case No. [D2005-0623](#).

The record shows that Respondent registered the disputed domain name long after Complainant perfected its trademark rights. The terms used to make up the disputed domain name, and its use to direct users to a website with links to cosmetics products make obvious that Respondent was aware of the nature of Complainant's business associated with its trademarks. Respondent deliberately attempted to attract Internet users to redirect traffic to commercial websites for commercial gain, by creating a likelihood of confusion with Complainant's marks. This is evidence of bad faith registration and bad faith use. E.g., *Pfizer Inc. v. jg a/k/a Josh Green*, WIPO Case No. [D2004-0784](#); *DaimlerChrysler Corporation and DaimlerChrysler Services North America LLC v. LaPorte Holdings, Inc.*, WIPO Case No. [D2005-0070](#).

The evidence adduced by Complainant also shows that Respondent has offered the disputed domain name for sale for USD 688, which likely exceeds reasonable costs of registration, further supporting a finding of bad faith. Policy, paragraph 4(b)(i).

Finally, the Panel also finds that bad faith is established under Policy, paragraph 4(b)(ii): Respondent has engaged in a pattern of abusive registrations of multiple domain names incorporating many well-known trademarks and has lost literally hundreds of domain name disputes based on that activity. [WIPO Overview 3.0](#) section 3.1.1.²

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 <moltonbrown.co> be transferred to Complainant.

/Jeffrey D. Steinhardt/

Jeffrey D. Steinhardt

Sole Panelist

Date: September 21, 2022

² Respondent's failure to reply to the Complaint is further cumulative evidence of use in bad faith.