

ADMINISTRATIVE PANEL DECISION

Whirlpool Properties, Inc. v. Contact Privacy Inc. Customer 0162213751 / MICHAEL TRUESDELLE, rtzpvlrtrjk, Contact Privacy Inc. Customer 0162167317 / JESTIN HASBROUCK, cadence33, Contact Privacy Inc. Customer 0162167507 / DIANE CONLEY, rijoy01, Contact Privacy Inc. Customer 0162517691 / latashia levy, bachelarda, Contact Privacy Inc. Customer 0162516411 / TINA SIMIEN, nikata84, Contact Privacy Inc. Customer 0162385013 / OKLA TAYLOR, salefridgefilter
Case No. D2022-1864

1. The Parties

The Complainant is Whirlpool Properties, Inc., United States of America (“United States”), represented by ALG India Law Offices, India.

The Respondents are Contact Privacy Inc. Customer 0162213751, Canada / MICHAEL TRUESDELLE, rtzpvlrtrjk, United States; Contact Privacy Inc. Customer 0162167317, Canada / JESTIN HASBROUCK, cadence33, United States; Contact Privacy Inc. Customer 0162167507, Canada / DIANE CONLEY, rijoy01, United States; Contact Privacy Inc. Customer 0162517691, Canada / latashia levy, bachelarda, United States; Contact Privacy Inc. Customer 0162516411, Canada / TINA SIMIEN, nikata84, United States; and, Contact Privacy Inc. Customer 0162385013, Canada / OKLA TAYLOR, salefridgefilter, United States.

2. The Domain Names and Registrar

The disputed domain names <everydropfilteronsale.com>, <everydrop-filter-sale.com>, <everydropfiltershop.com>, <everydropfridgefilter.com>, <everydropfridgefilters.com> and <everydrop-online.com> are registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 24, 2022. The original Complaint identified eight disputed domain names. On May 24, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On May 24, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondents and contact information in the Complaint. The Center sent an email communication to the Complainant on June 6, 2022, 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 4, 2022. This amended Complaint dropped one of the eight disputed domain names. The record reveals that at some later point in time, one of the then-remaining disputed domain names was transferred in accordance with a court order. On August 4, 2022, the Complainant filed a second amended Complaint identifying the six disputed domain names that are currently the subject of this action.

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 first amended Complaint, and the proceedings commenced on June 10, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 30, 2022. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on July 12, 2022.

The Center appointed Evan D. Brown as the sole panelist in this matter on August 22, 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

The Complainant is one of the world’s largest home appliance manufacturers. It owns the trademark EVERYDROP for which it enjoys the benefit of registration (e.g., United States Reg. No. 5232741, registered on February 9, 2017). According to the Whois records, the disputed domain names were registered on the following dates:

<everydropfridgefilter.com> – July 19, 2021;
<everydropfridgefilters.com> – July 19, 2021;
<everydropfilteronsale.com> – July 26, 2021;
<everydrop-filter-sale.com> – August 19, 2021;
<everydropfiltershop.com> – September 6, 2021;
<everydrop-online.com> – September 6, 2021.

The Respondents have used the disputed domain names to set up websites purporting to sell unauthorized and infringing versions of the Complainant’s products.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain names are identical or confusingly similar to the Complainant’s trademark; that the Respondents have no rights or legitimate interests in respect of the disputed domain names; and that the disputed domain names were registered and are being used in bad faith.

B. Respondents

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights, (ii) the Respondents have no rights or legitimate interests in respect of the disputed domain names, and (iii) the disputed domain names have been registered and are being used in bad faith. The Panel finds that all three of these elements have been met in this case.

A. Procedural Matter – Consolidation of Multiple Respondents

Each of the six disputed domain names was registered using different registration details. The Complainant requests that all of the domain name disputes be consolidated into this matter. Consolidation is proper, so the Complainant's request for consolidation is granted.

Paragraph 10(e) of the Rules states that a “[p]anel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules”. Paragraph 10(c) of the Rules provides, in relevant part, that “the [p]anel shall ensure that the administrative proceeding takes place with due expedition”. Section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) summarizes the consensus view of UDRP panels on the consolidation of multiple respondents and provides that where a complaint is filed against multiple respondents, panels consider whether the domain names or corresponding websites are subject to common control, and whether the consolidation would be fair and equitable to all parties.

The record indicates the disputed domain names are under common control. The Complainant points out, among other things, that all six disputed domain names:

- are registered with the same Registrar and use the same proxy services of the common Registrar to mask the details of the Respondents;
- have identical domain name servers;
- feature the mark EVERYDROP and word “filter” with minor variations and other words such as “sale”, “shop”, “fridge”, etc.;
- were registered within a relatively short span of time – from July 19, 2021 to September 6, 2021; and
- contain registrant organization information in the Whois data that appears frivolous or fake.

Additionally, the websites hosted at all six disputed domain names contain similar content relating to the sale of the Complainant's products, featuring the Complainant's marks in a similar fashion.

The Respondents have not presented any arguments as to why consolidation would be unfair or inequitable. Accordingly, conditions for proper consolidation of the disputed domain names into one matter are present here.

B. Identical or Confusingly Similar

This element requires the Panel to consider two issues: first, whether the Complainant has rights in a relevant mark; and, second, whether the disputed domain names are identical or confusingly similar to that mark. This element under the Policy functions primarily as a standing requirement. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#). The Complainant has demonstrated its rights in the

EVERYDROP mark by providing evidence of its trademark registrations.

The disputed domain name incorporates the EVERYDROP mark in its entirety with various additional words in the several disputed domain names (e.g., “filter”, “shop” and “online”), none of which prevent a finding of confusing similarity between the disputed domain name and the Complainant’s EVERYDROP mark. See [WIPO Overview 3.0](#), section 1.8. The EVERYDROP mark remains sufficiently recognizable for a showing of confusing similarity under the Policy.

Accordingly, the Complainant has satisfied this first UDRP element.

C. Rights or Legitimate Interests

The Panel evaluates this element of the Policy by first looking to see whether the Complainant has made a *prima facie* showing that the Respondents lack rights or legitimate interests in respect of the disputed domain names. If the Complainant makes that showing, the burden of production of demonstrating rights or legitimate interests shifts to the Respondents (with the burden of proof always remaining with the Complainant).

On this point, the Complainant asserts, among other things, that (1) the Complainant has never authorized or licensed the Respondents to use the EVERYDROP mark in any manner, (2) there is no association or past dealing between the Complainant and the Respondents, (3) the Respondents are not commonly known by the disputed domain names, and (4) the use of the disputed domain names to sell unauthorized and infringing products is not a *bona fide* offering of goods and services.

The Panel finds that the Complainant has made the required *prima facie* showing. The Respondents have not presented evidence to overcome this *prima facie* showing. And nothing in the record otherwise tilts the balance in the Respondents’ favor.

Accordingly, the Panel finds that the Complainant has established this second element under the Policy.

D. Registered and Used in Bad Faith

The Policy requires a complainant to establish that the disputed domain name was registered and is being used in bad faith. The Policy describes several non-exhaustive circumstances demonstrating a respondent’s bad faith registration and use. Under paragraph 4(b)(iv) of the Policy, a panel may find bad faith when a respondent “[uses] the domain name to intentionally attempt to attract, for commercial gain, Internet users to [respondent’s] website or other online location, by creating a likelihood of confusion with complainant’s mark as to the source, sponsorship, affiliation, or endorsement of [respondent’s] website or location or a product or service on [the respondent’s] website or location”.

The circumstances in this case show that the Respondents targeted the Complainant when it registered the disputed domain name. This is apparent from how the disputed domain names incorporate the Complainant’s mark and were set up to display websites selling products that infringe the Complainant’s intellectual property rights.

The facts indicate that the Respondents are using the disputed domain names in bad faith, by using them to intentionally attempt to divert, for commercial gain, Internet users to one or more competing websites in an effort to confuse and mislead consumers. *Deutsche Lufthansa AG v. Domain Admin, Whois Privacy Corp / Ryan G Foo, PPA Media Services*, WIPO Case No. [D2015-2346](#); *Net2phone Inc. v. Dynasty System Sdn Bhd*, WIPO Case No. [D2000-0679](#). Using domain names containing the Complainant’s mark to set up websites selling unauthorized and infringing products is a clear example of bad faith use.

Accordingly, the Panel finds the Complainant has established this third element under the Policy.

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, <everydropfilteronsale.com>, <everydrop-filter-sale.com>, <everydropfiltershop.com>, <everydropfridgefilter.com>, <everydropfridgefilters.com> and <everydrop-online.com>, be transferred to the Complainant.

/Evan D. Brown/

Evan D. Brown

Sole Panelist

Date: September 5, 2022