

ADMINISTRATIVE PANEL DECISION

Olaplex, Inc. v. 丁超 (Ding Chao)

Case No. D2023-4059

1. The Parties

The Complainant is Olaplex, Inc., United States of America (“United States”), represented by 101domain.com, United States.

The Respondent is 丁超 (Ding Chao), China.

2. The Domain Name and Registrar

The disputed domain name <olaplexofficial.com> is registered with Jiangsu Bangning Science & technology Co. Ltd. (the “Registrar”).

3. Procedural History

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 27, 2023. On September 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 7, 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 (Information not available on WHOIS) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 11, 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 in English on October 12, 2023.

On October 11, the Center sent an email in English and Chinese to the Parties regarding the language of the proceeding. The Complainant submitted its request that English be the language of the proceeding on October 12, 2023. The Respondent did not comment on the language of the proceeding.

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 in English and Chinese of the Complaint, and the proceedings commenced on October 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 7, 2023. The Respondent did not submit any Response. Accordingly, the Center notified the Respondent’s default on November 9, 2023.

The Center appointed Jonathan Agmon as the sole panelist in this matter on November 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

The Complainant, Olaplex, Inc., is one of the largest independent hair care brands in the world with over 100 patents for their formulas and treatments spanning the globe. The Complainant has been operating in the hair care industry since 2014 and has built an entire brand around their trademarked term “Olaplex” with nearly all products distinctively labeled with the company’s brand name.

The Complainant is the owner of the following OLAPLEX trademarks:

- International Trademark Registration No. 1187399 for OLAPLEX, registered on November 27, 2013; and
- United States Trademark Registration No. 4553436 for OLAPLEX, registered on June 17, 2014.

The Complainant also states that it owns over 100 domain names consisting of generic Top-Level Domain (“gTLD”) and country code Top-Level Domain (“ccTLD”) variations of the OLAPLEX mark, including the domain names <olaplex.com>, <olaplexhair.com>, <olaplexusers.com>, and <olaplex.website>.

The Complainant provided evidence that the Respondent registered the disputed domain name on July 11, 2023. The disputed domain name previously resolved to a website where the Respondent was purportedly offering for sale counterfeit goods bearing the OLAPLEX mark at heavily discounted prices. At the time of filing the Complainant, the disputed domain name did not resolve to any active website.

5. Parties’ Contentions

A. Complainant

The Complainant argues that the disputed domain name is confusingly similar to the Complainant’s registered OLAPLEX mark as the Respondent has intentionally registered a confusingly similar domain name that incorporates the Complainant’s mark in its entirety.

The Complainant also argues that the Respondent lacks any rights or legitimate interests in the marks or the disputed domain name as it has not authorised the Respondent to use any of its trademarks or register the disputed domain name, and that the Respondent registered and continues to use the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1 Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. The Complainant requested that the language of the proceeding be English for the following main reasons:

- (i) The disputed domain name consists of English words, and previously resolved to a website containing words in English rather than Chinese; and

- (ii) The Complainant does not speak or understand the Chinese language, and requiring the Complaint to be translated into Chinese would result in the proceeding being unduly delayed and the Complainant having to incur substantial expenses for translation.

The Respondent did not comment on the language of the proceeding.

Paragraph 11(a) of the Rules provides that:

“Unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.”

Section 4.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)) states the following:

“Noting the aim of conducting the proceedings with due expedition, paragraph 10 of the UDRP Rules vests a panel with authority to conduct the proceedings in a manner it considers appropriate while also ensuring both that the parties are treated with equality, and that each party is given a fair opportunity to present its case. Against this background, panels have found that certain scenarios may warrant proceeding in a language other than that of the registration agreement. Such scenarios include (i) evidence showing that the respondent can understand the language of the complaint, (ii) the language/script of the domain name particularly where the same as that of the complainant’s mark, (iii) any content on the webpage under the disputed domain name, (iv) prior cases involving the respondent in a particular language, (v) prior correspondence between the parties, (vi) potential unfairness or unwarranted delay in ordering the complainant to translate the complaint, (vii) evidence of other respondent-controlled domain names registered, used, or corresponding to a particular language, (viii) in cases involving multiple domain names, the use of a particular language agreement for some (but not all) of the disputed domain names, (ix) currencies accepted on the webpage under the disputed domain name, or (x) other indicia tending to show that it would not be unfair to proceed in a language other than that of the registration agreement.”

Having considered the relevant factors and interests of the respective Parties, the Panel determines that it would be appropriate for English be the language of the proceeding. The Panel is persuaded that the Respondent would not be prejudiced as he appears to be familiar with and understand the English language. The previous content of the website under the disputed domain name is in the English language and notably, nothing in Chinese. The Respondent had, moreover, been notified by the Center, in both Chinese and English, of the commencement of the proceeding, the language of the proceeding, and deadline for filing a Response in Chinese or English. The Respondent therefore had ample opportunity to object and/or propose to submit his Response in Chinese but did not do so. In the absence of any rebuttal argument or justification therefore by the Respondent, the Panel does not find it procedurally efficient to have the Complainant translates the Complaint into Chinese.

6.2 Substantive Issues

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. The Complainant has provided evidence that it owns the OLAPLEX registered trademark.

The disputed domain name comprises the Complainant’s OLAPLEX mark in its entirety with the addition of the term “official”.

It is established that in cases where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. (See [WIPO Overview 3.0](#), section 1.8). Thus, the disputed domain name, which in this case incorporates the Complainant's mark in its entirety and contains the additional element "official", does not avoid a finding of confusingly similarity between the Complainant's mark and the disputed domain name.

Further, it is well established that the addition of a gTLD ".com" is typically disregarded under the first element when considering the confusing similarity between the Complainant's trademark and the disputed domain name (see [WIPO Overview 3.0](#), section 1.11.1).

Consequently, the Panel finds that the Complainant has shown that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

Once the complainant establishes a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name, the burden of production of evidence shifts to the respondent to show that it has rights or legitimate interests in respect of the disputed domain name (see [WIPO Overview 3.0](#), section 2.1).

The Complainant has provided evidence that it owns trademark registrations of the OLAPLEX mark long before the date that the disputed domain name was registered and that the Complainant is not affiliated with nor has it licensed or otherwise authorised the Respondent to use the Complainant's trademark (see *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*, WIPO Case No. [D2010-0138](#)).

The Complainant also furnished evidence that the Respondent is not commonly known by the name "Olaplex".

The Complainant has demonstrated *prima facie* case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and the Respondent has failed to assert any such rights or legitimate interests.

The composition of the disputed domain name, which incorporates the Complainant's trademark in its entirety together with the term "official", carries a risk of implied affiliation with the Complainant ([WIPO Overview 3.0](#), section 2.5.1).

Further, the Respondent did not submit a Response in the present case and did not provide any explanation or evidence to show rights or legitimate interests in the disputed domain name which would be sufficient to rebut the Complainant's *prima facie* case. The Complainant provided evidence that the disputed domain name previously resolved to a website bearing the OLAPLEX trademark that purportedly offered for sale what appears to be various counterfeit and/or knockoff versions of the Complainant's branded products. Panels have held that the use of a domain name for illegal activity can never confer rights or legitimate interests on a respondent. (See [WIPO Overview 3.0](#) section 2.13.1).

Moreover, in this case, the Complainant has provided evidence that the goods sold on the Respondent's website are sold at a steep discount as compared to the originals sold by the Complainant. Past panels have held that goods sold at well below market value can form circumstantial evidence which support a complainant's claim of counterfeit goods. The Panel therefore is satisfied that the goods sold on the Respondent's website are likely to be counterfeit goods.

The Panel is therefore of the view that the Respondent has no rights or legitimate interests in respect of the disputed domain name and accordingly, paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

The complainant must also show that the respondent registered and is using the disputed domain name in bad faith (see Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy.

The Complainant has submitted evidence that the Respondent registered the disputed domain name long after the Complainant registered its OLAPLEX trademark. Given the distinctiveness of the Complainant's mark and its good will it is highly unlikely that the Respondent did not know of the Complainant and its OLAPLEX mark prior to the registration of the disputed domain name.

In addition, the disputed domain name incorporates the entirety of the Complainant's OLAPLEX mark along with the additional term "official", and without any disclaimer which distances and/or differentiates itself from the Complainant. The Panel finds that this is an attempt by the Respondent to confuse and/or mislead Internet users seeking or expecting the Complainant.

Further, the disputed domain name previously resolved to a webpage which offered for sale what appeared to be various counterfeit versions of the Complainant's products. Given that the use of a domain name for *per se* illegitimate activity such as the sale of counterfeit goods can never confer rights or legitimate interests on a respondent, such behavior is manifestly considered evidence of bad faith (See [WIPO Overview 3.0](#), section 3.1.4).

In addition, the Respondent did not submit a Response in this proceeding. Under the circumstances of this case, this is an additional indication of the Respondent's bad faith, which was considered by the Panel.

Based on the evidence presented to the Panel, including the confusing similarities between the disputed domain name and the Complainant's marks, the fact that the disputed domain name was registered and used for the purpose of selling what appeared to be counterfeit goods, and the fact that no Response was submitted by the Respondent in response to the Complaint, the Panel concludes that the disputed domain name was registered and is being used in bad faith. The subsequent non-use of the disputed domain name does not change the Panel's finding on the Respondent's bad faith.

Accordingly, having regard to the circumstances of this particular case, the Panel finds that the Complainant has met its burden under paragraph 4(a)(iii) of 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 name <olaplexofficial.com> be transferred to the Complainant.

/Jonathan Agmon/

Jonathan Agmon

Sole Panelist

Date: November 27, 2023