

ADMINISTRATIVE PANEL DECISION

GL Concepts, LLC d/b/a Goodlife v. Perfect Privacy, LLC /
Amitava Saha, Firstcry
Case No. D2022-0451

1. The Parties

The Complainant is GL Concepts, LLC d/b/a Goodlife, United States of America (“United States”), represented by Ritholz Levy Fields LLP, United States.

The Respondent is Perfect Privacy, LLC, United States / Amitava Saha, Firstcry, India.

2. The Domain Name and Registrar

The disputed domain name <goodlife.com> is registered with Network Solutions, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 8, 2022. On February 10, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 14, 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 the Complainant on March 7, 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 March 8, 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 the Respondent of the Complaint, and the proceedings commenced on March 14, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 3, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 22, 2022.

The Center appointed Assen Alexiev as the sole panelist in this matter on May 3, 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 has not provided a description of its activities. It is the owner of the United States trademark GOODLIFE with registration No. 4,750,312, registered on June 9, 2015 for goods in International Class 25 (the "GOODLIFE trademark") for clothing; namely, shirts, t-shirts, tank tops, sweatshirts, pants, shorts, and hats.

The disputed domain name was registered on September 24, 1998. It is inactive.

5. Parties' Contentions

A. Complainant

The Complainant submits that the disputed domain name is identical to its GOODLIFE trademark.

According to the Complainant, the Respondent has never used the disputed domain name in connection with a *bona fide* offering of goods or services or for any legitimate noncommercial purpose, but only for a landing webpage with no offering. The Complainant maintains that the Respondent is using the disputed domain name with the intent to mislead or divert customers for commercial gain by "holding the unused disputed domain name hostage for an exorbitant price tag".

The Complainant maintains that the disputed domain name should be considered as having been registered in bad faith due to the Respondent's failure to utilize it for any legitimate purpose other than as a means to demand significant costs from the Complainant in connection with its request to acquire the disputed domain name that is identical to its registered GOODLIFE trademark and business. According to the Complainant, the fact that the Respondent has not used the disputed domain name for any commercial purpose underscores the lack of good faith both when the disputed domain name was registered and throughout its subsequent renewal. In the Complainant's submission, the disputed domain name operates currently only to prevent the Complainant from being able to use its GOODLIFE trademark in a corresponding domain name. According to the Complainant, in light of the fact that the Respondent has not and is not currently operating the disputed domain name in a *bona fide* commercial manner, it exists only to divert the Complainant's customers and operate "as a purported leverage point for the Respondent to demand an outrage fee" for the disputed domain name (which, according to the Complainant, the Respondent has done), thus preventing the Complainant from utilizing a domain name with its registered GOODLIFE trademark for a legitimate and lawful purpose.

B. Respondent

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

6. Discussion and Findings

Pursuant to the Policy, paragraph 4(a), the Complainant must prove each of the following to justify the transfer of the disputed domain name:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has provided evidence of the registration of the GOODLIFE trademark in the United States and has thus established its trademark rights for the purposes of the Policy. This trademark was registered in 2015 (seventeen years after the registration of the disputed domain name) and claims a first use in commerce of December 28, 1999. As discussed in section 1.1.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the Policy makes no specific reference to the date on which the holder of the trademark or service mark acquired its rights, but such rights must be in existence at the time the complaint is filed, and the fact that a domain name may have been registered before a complainant has acquired trademark rights does not by itself preclude a complainant's standing to file a UDRP case, nor a panel's finding of identity or confusing similarity under the first element. However, where a domain name has been registered before a complainant has acquired trademark rights, only in exceptional cases would a complainant be able to prove a respondent's bad faith. This is discussed in the following sections of the present decision.

The Panel notes that a common practice has emerged under the Policy to disregard in appropriate circumstances the generic Top-Level Domain ("gTLD") section of domain names for the purposes of the comparison under the Policy, paragraph 4(a)(i). See section 1.11.1 of the WIPO Overview of [WIPO Overview 3.0](#). The Panel sees no reason not to follow the same approach here, so it will disregard the ".com" gTLD section of the disputed domain name.

The relevant part of the disputed domain name is therefore the element "goodlife", which is identical to the GOODLIFE trademark.

Therefore, the Panel finds that the disputed domain name is identical to the GOODLIFE trademark in which the Complainant has registered trademark rights.

B. Rights or Legitimate Interests

As long as the Complainant has failed to establish that the disputed domain name has been registered and is being used in bad faith, there is no need to address the issue of whether the Respondent has rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

As summarized in section 3.8.1 of the [WIPO Overview 3.0](#), where a respondent registers a domain name before the complainant's trademark rights accrue, panels will not normally find bad faith on the part of the respondent.

The disputed domain name was registered seventeen years prior to the registration of the GOODLIFE trademark and is composed of the dictionary words "good" and "life", the combination of which can have various legitimate uses unrelated to the Complainant or its trademark. The Complainant does not explain the extent of renown of its mark in 1999 (its claimed first use in commerce) and moreover does not claim to have existed in 1998, when the disputed domain name was registered, and has not provided any evidence that the website at the disputed domain name has at any time targeted the Complainant or its GOODLIFE trademark. Rather, it appears that the disputed domain name has been inactive. The Complainant has not explained how the Respondent could have registered the disputed domain name in bad faith in light of these circumstances. The Complainant states that the Respondent has attempted to sell the disputed domain name to it for an "exorbitant price", which the Panel is prepared to take at face value, but has in any event provided no supporting evidence.

While it is possible that the disputed domain name changed hands subsequent to the Complainant's first use in commerce or trademark registration, the disputed domain name registration was initially under a privacy service, and moreover the Complainant has not presented any evidence (if it would be available e.g., through a detailed search report) or made any arguments to this effect. In view of the above, based on the facts before the Panel, the Respondent could not have known of the Complainant at the time when it registered the disputed domain name and could not have targeted it with this registration. Therefore, the Panel concludes that the Complainant has failed to establish that the Respondent has registered the disputed domain name in bad faith.

The Policy requires the Complainant to establish that the Respondent has both registered and used the disputed domain name in bad faith. Since the Complainant has failed to establish bad faith registration, the Complaint must fail, and it is not necessary to decide whether the disputed domain name has been used in bad faith. Nevertheless, the Panel notes that there is no evidence of any use of the disputed domain name after its registration, and the Complainant's allegation that the Respondent has attempted to sell the disputed domain name to it is not supported by any evidence.

7. Reverse Domain Name Hijacking

Reverse Domain Name Hijacking ("RDNH") is defined under the Rules as "using the Policy in bad faith to attempt to deprive a registered domain-name holder of a domain name".

Paragraph 15(e) of the Rules provides that, if "after considering the submissions the panel finds that the complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or was brought primarily to harass the domain-name holder, the panel shall declare in its decision that the complaint was brought in bad faith and constitutes an abuse of the administrative proceeding".

As set out in section 4.16 of the [WIPO Overview 3.0](#), reasons articulated by panels for finding RDNH include: (i) facts which demonstrate that the complainant knew it could not succeed as to any of the required three elements – such as the complainant's lack of relevant trademark rights, clear knowledge of respondent rights or legitimate interests, or clear knowledge of a lack of respondent bad faith (such as registration of the disputed domain name well before the complainant acquired trademark rights, (ii) facts which demonstrate that the complainant clearly ought to have known it could not succeed under any fair interpretation of facts reasonably available prior to the filing of the complaint, including relevant facts on the website at the disputed domain name or readily available public sources such as the Whois database, (iii) unreasonably ignoring established Policy precedent notably as captured in this WIPO Overview – except in limited circumstances which *prima facie* justify advancing an alternative legal argument, (iv) the provision of false evidence, or otherwise attempting to mislead the panel, (v) the provision of intentionally incomplete material evidence – often clarified by the respondent, (vi) the complainant's failure to disclose that a case is a UDRP refiling, (vii) filing the complaint after an unsuccessful attempt to acquire the disputed domain name from the respondent without a plausible legal basis, (viii) basing a complaint on only the barest of allegations without any supporting evidence.

The Complainant is represented by counsel. It should have taken into account that the Respondent has been the owner of the disputed domain name for a long period of time, which started seventeen years before the registration of the Complainant's GOODLIFE trademark and nearly a year before its claimed first use in commerce, and should have appreciated the established Policy precedent that where a respondent registers a domain name before the complainant's trademark rights accrue, panels will not normally find bad faith on the part of the respondent. It would be incumbent on the Complainant to advance any facts supporting a claim to a later acquisition of the disputed domain name by the Respondent, if such fact exists. The Complainant should have also appreciated the lack of any evidence of targeting of the Complainant by the Respondent through the use of the disputed domain name. In view of the above, the Complainant should have appreciated that it would not be able to prevail on the issue of bad faith under the Policy.

On the basis of the above, the Panel finds that the Complainant has engaged in Reverse Domain Name Hijacking.

8. Decision

For the foregoing reasons, the Complaint is denied.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: May 17, 2022