

## **ADMINISTRATIVE PANEL DECISION**

Silicone Ltd v. Privacy Service Provided by Withheld for Privacy ehf / Mike Meng

Case No. D2022-1832

### **1. The Parties**

The Complainant is Silicone Ltd, United Kingdom, represented internally.

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Mike Meng, China.

### **2. The Domain Name and Registrar**

The disputed domain name <siliconlover.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 20, 2022. On May 23, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 23, 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 May 25, 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 amendment to the Complaint on June 10, 2022.

The Center verified that the Complaint together with the amendment to the 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 June 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 3, 2022. The Respondent’s informal communication was received by the Center on June 11, 2022. The Center notified the Commencement of Panel Appointment Process to the Parties on July 5, 2022.

The Center appointed William F. Hamilton as the sole panelist in this matter on July 12, 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 been in the business of manufacturing and selling love dolls and related kits and accessories since 2018 utilizing the mark SILICONE LOVERS (the "Mark"). The Complainant has provided detailed evidence in its numerous Annexes to the Complaint that since its founding the Complainant has experienced exponential sales growth, growth of online store sessions, extensive exposure on essential industry platforms, high levels of engagement on social media, significant mainstream press coverage, and thousands of positive consumer and industry reviews and comments. The Complainant maintains an active Instagram account with 3,575 followers, and the Complainant has over 14,000 email subscribers. The Complainant offers its love doll products and related kits and accessories at the website "www.silicone lovers.com".

The Complainant obtained United Kingdom Trademark Registration No. UK00003708761 for the Mark with a filing date of October 7, 2021 and registered on January 14, 2022.

The disputed domain name was registered on July 5, 2021. The disputed domain name resolves to a website has the look and feel of the Complainant's website which offers love dolls for sale resembling the love dolls offered on the Complainant's website.

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

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

The Complainant asserts the disputed domain name is confusingly similar to the Mark because the disputed domain name adopts the Mark in its entirety with the exception of dropping the letters "e" and "s" from the Mark.

The Complainant asserts that the Complainant never authorized the Respondent to use the Mark or the disputed domain name, that the Respondent is not generally known by the disputed domain name, and that the Respondent has never engaged in any *bona fide* commercial activity in connection with the Mark or the disputed domain name.

The Complainant asserts that the disputed domain name was registered to lure and direct unsuspecting Internet users who have innocently mistyped the Complainant's domain name or Mark to the Respondent's website where the Respondent sells products virtually identical to the products offered by the Complainant at a website that has the look and feel of the Complainant's website.

##### **B. Respondent**

The Respondent did not substantively reply to the Complainant's contentions simply stating: "Is there any influence on my side? Can I continue the renewal of the domain?".

## 6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel that:

- (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

In view of the detailed evidence in the numerous Annexes to the Complaint, and the extensive use the Complainant has done of SILICONE LOVERS, the Panel finds that the Complainant has established unregistered common law rights in the Mark (the Panel notes that the use of the “Mark” in the decision includes the unregistered common law rights in SILICONE LOVERS). WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.3 (“Relevant evidence demonstrating such acquired distinctiveness (also referred to as secondary meaning) includes a range of factors such as (i) the duration and nature of use of the mark, (ii) the amount of sales under the mark, (iii) the nature and extent of advertising using the mark, (iv) the degree of actual public (e.g., consumer, industry, media) recognition, and (v) consumer surveys.”)

The Panel also notes that the Complainant has registered rights over the Mark.

The Panel finds that the disputed domain name is confusingly similar to the Complainant’s protected Mark.

The disputed domain name adopts the Mark in its entirety except for merely dropping the letters “e” and “s” from the Mark. A domain name which consists of a common, obvious, or intentional misspelling of a trademark is confusingly similar to the relevant mark for purposes of the first element. See [WIPO Overview 3.0](#), section 1.9.

The Complainant has met its burden under paragraph 4(a)(i) of the Policy.

### B. Rights or Legitimate Interests

The Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant has specifically disavowed providing the Respondent with permission to use the disputed domain name or the Mark. The Respondent is not affiliated with the Complainant and does not have any business relationship with the Complainant. There is no evidence that the Respondent has conducted any *bona fide* business under the disputed domain name or is commonly known by the disputed domain name.

The Complainant has thus established a *prima facie* case in its favor, which shifts the burden of production on this point to the Respondent. The Respondent, however, has failed to come forth with any evidence showing any rights or legitimate interests in the disputed domain name.

Furthermore, the nature of the disputed domain name, the Respondent’s “typosquatting” carries a risk of Internet user confusion, as unsuspecting Internet users will assume that the disputed domain name resolves to a website operated, sponsored, or affiliated with the Complainant.

The facts and circumstances presented to the Panel demonstrate that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

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

Under paragraph 4(b) of the Policy, bad faith may be established by any one of the following scenarios:

(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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.

The Panel finds the disputed domain name was registered and is being used in bad faith.

There is little doubt that the Respondent was aware of the Complainant's Mark when registering the disputed domain name as shown by the fact that the Respondent's website features the look and feel of the Complainant's website while offering similar competitive products. The Respondent's scheme is obvious. The Respondent registered and used the disputed domain name in bad faith to lure unsuspecting Internet users who may have incorrectly spelled the Complainant's established Mark to the Respondent's website. The Respondent website was designed with a similar look and feel of the Complainant's website so that mistaken Internet users would not be altered to their error.

Finally, even if this obvious conclusion is disregarded, it is difficult to conceive of any use that the Respondent might make of the disputed domain name without the Complainant's consent that would not involve bad faith. See, e.g., *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

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 <siliconlover.com> be transferred to the Complainant.

*/William F. Hamilton/*

**William F. Hamilton**

Sole Panelist

Date: July 26, 2022