

## **ADMINISTRATIVE PANEL DECISION**

FLRish IP, LLC v. Mike Tailor  
Case No. D2022-2446

### **1. The Parties**

The Complainant is FLRish IP, LLC, United States of America (“United States”), represented by Evoke Law, PC, United States.

The Respondent is Mike Tailor, Kenya.

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

The disputed domain name <shopharborsidelivery.com> is registered with NameSilo, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 5, 2022. On July 6, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 6, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 July 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 2, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 4, 2022.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on August 10, 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 a California state-licensed enterprise operating cannabis dispensary, delivery services, manufacturing, and cultivation pursuant to California's Medicinal and Adult-Use Cannabis Regulation and Safety Act (SB 94) under the HARBORSIDE brand. Since 2006, the Complainant provided medical cannabis pursuant to California law SB 215, as a properly organized collective. At all times, the Complainant has maintained the necessary state approvals to legally provide patients and/or adult-users cannabis products in California. Since August 2016, the Complainant has operated the website "www.shoparborside.com", which is the homepage for all information related to the Complainant's business.

The Complainant was the subject of a documentary series on the Discovery channel. Even before the Discovery series debuted, the Harborside dispensary had been prominently and positively reported on in the media, featured by news teams from around the globe including major news outlets in the United States, as well as in Canada, Japan, Germany, and the United Kingdom ("U.K.").

Due to its success, longevity, and prominence in the cannabis industry, the Complainant has established considerable goodwill in the HARBORSIDE mark. The Complainant owns multiple registrations for the HARBORSIDE mark before the United States Patent and Trademark Office, as well as in Australia, Canada, the European Union ("EU"), Israel, and the United Kingdom.

The Complainant is, *inter alia*, the owner of:

United States trademark HARBORSIDE, registration number 5509269, registered on July 3, 2018;

UK trademark HARBORSIDE, registration number UK00801361694, registered on May 15, 2017; and

International trademark HARBORSIDE, registration number 1361694, registered on May 15, 2017, designating among other the EU.

The disputed domain name was registered on June 26, 2022.

The Complainant's trademark registrations predate the registration of the disputed domain name.

At the time, the Complaint was filed the disputed domain resolved to a webpage that prominently displayed the registered HARBORSIDE trademark and HARBORSIDE flag logo in connection with promoting the sale of cannabis and cannabis products.

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

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

The Complainant contends that the disputed domain name is confusingly similar to the HARBORSIDE trademark, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name has been registered and is being used in bad faith.

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

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

## 6. Discussion and Findings

In order for the Complainant to obtain a transfer of the disputed domain name, paragraphs 4(a)(i)-(iii) of the Policy require that the Complainant must demonstrate to 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; and
- (ii) The 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.

### A. Identical or Confusingly Similar

The Complainant has established rights in the HARBORSIDE trademark.

Here the disputed domain name add the terms “shop” and “livery” to the HARBORSIDE trademark.

This Panel agrees with the Complainant’s view that the HARBORSIDE trademark is clearly recognizable and that the addition of the other terms do not avoid a finding of confusing similarity.

See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 1.8: “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”. Furthermore, the applicable generic Top-Level Domain (“gTLD”) “.com” is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

### B. Rights or Legitimate Interests

This Panel finds that the Complainant has made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Respondent does not appear to be commonly known by the name “harborside” or by any similar name. The Respondent has no connection or affiliation with the Complainant and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant’s trademark. Contrary to this, the construction of the disputed domain name, namely the incorporation of the Complainant’s trademark, is suggestive of the Respondent’s intent to mislead Internet users as to the affiliation of the disputed domain name to the Complainant. Moreover, the Respondent does not appear to make any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a *bona fide* offering of goods or services. In fact, according to the Complainant’s assertions, that were not rebutted, the Respondent offers to transport cannabis and cannabis products in interstate commerce, which is unlawful under federal law. The Respondent has not come forward with any explanation that demonstrates any rights or legitimate interests in the disputed domain name.

The Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

### C. Registered and Used in Bad Faith

The Panel, on the basis of the evidence presented, accepts and agrees with the Complainant’s contentions that the disputed domain name was registered and has been used in bad faith.

The HARBORSIDE trademark is a fanciful name. It has been registered and used for several years.

Given the use of the HARBORSIDE trademark and HARBORSIDE flag logo in connection with promoting the sale of cannabis and cannabis products on the Respondent’s website, the Panel finds that the Respondent

knew of the Complainant's mark and intentionally intended to create an association with the Complainant and its business at the time of registration of the disputed domain name.

The Panel thus agrees with the Complainant's assertions that:

The Respondent's knowledge of the Complainant's trademark at the time of registering the disputed domain name and the use of the Complainant's trademark and logo by the Respondent satisfy the bad faith requirement of paragraph 4(a)(iii).

Another factor supporting the conclusion of bad faith registration and use of the disputed domain name is given by the fact that the Respondent apparently provided incorrect, if not false, details regarding its contact references to the Registrar. In fact, it transpires that the couriered letter sent to the Respondent by the Center was not delivered for this reason.

Further support for a finding of bad faith registration and use of the disputed domain name is given by the fact that the Respondent has not come forward with any explanation that demonstrates any rights or legitimate interests in the disputed domain name; neither rebutted any of the Complainant's claims.

Accordingly, the Panel finds, on the basis of the evidence presented, that the Respondent registered and is using the disputed domain name in bad faith.

Therefore, the Complainant has satisfied 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 <shopharborsidelivery.com> be transferred to the Complainant.

*/Fabrizio Bedarida/*

**Fabrizio Bedarida**

Sole Panelist

Date: August 23, 2022