

ADMINISTRATIVE PANEL DECISION

Nautica Apparel, Inc. v. Ting Wang
Case No. D2022-2842

1. The Parties

The Complainant is Nautica Apparel, Inc., United States of America (“United States” or “U.S.”), represented by Authentic Brands Group, United States.

The Respondent is Ting Wang, China.

2. The Domain Name and Registrar

The disputed domain name <thenautica-store.com> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 3, 2022. On August 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 4, 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 August 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 31, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 1, 2022.

The Center appointed Andrea Mondini as the sole panelist in this matter on September 5, 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 the owner of the NAUTICA brand. Since it was established in 1983, the NAUTICA brand has been used in connection with a wide variety of branded goods and services, including clothing, accessories and home goods, which are now sold in over 200 NAUTICA stores and select department stores in over 65 countries, as well as on the Complainant's website, "www.nautica.com".

The Complainant owns numerous trademarks for the word mark NAUTICA, *inter alia*, the U.S. Trademark Registrations No. 3837562 for goods in International Class 25 registered on August 24, 2010, and No. 3841455 for services in International Class 35, in particular for retail store and online retail store services, registered on August 31, 2010.

The disputed domain name was registered on May 7, 2022.

The disputed domain name resolves to a website featuring the NAUTICA brand, the header "Nautica sales 2022 – Nautica – The Official Site for Apparel, Accessories" and offering clothing products.

5. Parties' Contentions

A. Complainant

The Complainant contends as follows:

The disputed domain name is confusingly similar to the NAUTICA trademark in which the Complainant has rights, because it incorporates this trademark in its entirety, whereas the addition of the article "the" and the word "store" is not sufficient to avoid confusing similarity.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The mark NAUTICA is associated with the Complainant, since this trademark has been extensively used to identify the Complainant and its product services. The Respondent has not been authorized by the Complainant to use these trademarks and there is no evidence of the Respondent's use, or demonstrable preparation to use, the disputed domain name in connection with a *bona fide* offering of goods and services.

The disputed domain name was registered in bad faith because it is obvious that the Respondent had knowledge of both the Complainant and its well known trademark NAUTICA at the time it registered the disputed domain name. The Respondent failed to respond to a cease and desist letter sent by the Complainant. The fact that Respondent has been actively using the disputed domain name to post a fake NAUTICA website offering counterfeit NAUTICA products constitutes use in bad faith.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the 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 has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant owns trademark registrations for its NAUTICA trademark.

The Panel notes that the disputed domain name incorporates the NAUTICA trademark in its entirety. The addition of the article “the” and of the word “store” with a hyphen, does not prevent a finding of confusing similarity under Policy, paragraph 4(a)(i). See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8.

For these reasons, the Panel concludes that the disputed domain name is confusingly similar to the Complainant’s mark NAUTICA.

The first element of paragraph 4(a) of the Policy has been met.

B. Rights or Legitimate Interests

The Complainant states it has not authorized the Respondent to use the trademark NAUTICA and that before notice of the dispute there is no evidence of the Respondent’s use, or demonstrable preparation to use, the disputed domain name. The Panel does not see any contrary evidence from the record.

In the view of the Panel, the Complainant has succeeded in raising a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. For its part, the Respondent failed to provide any explanations as to any rights or legitimate interests. Therefore, the Panel finds that the Respondent does not have any rights or legitimate interests in the disputed domain name.

Furthermore, noting the nature of the disputed domain name, comprising the Complainant’s trademark and the term “store”, along with the use of the disputed domain name for a website that displays fashion items with the NAUTICA logo, the Panel finds that the disputed domain name carries a risk of implied affiliation.

The second element of paragraph 4(a) of the Policy has been met.

C. Registered and Used in Bad Faith

The Complainant has shown to the satisfaction of the Panel that its NAUTICA trademark is well-known.

In the view of the Panel, it is inconceivable that the Respondent could have registered the disputed domain name without knowledge of the Complainant’s well-known trademark, considering that the Respondent used the disputed domain name to offer products under the NAUTICA brand. In the circumstances of this case, this is evidence of registration in bad faith.

The Complainant contends that goods offered on the website posted under the disputed domain name are counterfeit. The Respondent did not contest this allegation. In any event, the statement “*Nautica sales 2022 – Nautica – The Official Site for Apparel, Accessories*” on the website posted under the disputed domain name appears to be false. The Panel therefore finds that the disputed domain name has been actively used to post what is likely a fake NAUTICA website, with some misleading statements, and probably offering counterfeit NAUTICA products. This constitutes evidence of use in bad faith.

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

The third element of paragraph 4(a) of the Policy has been met.

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 <thenautica-store.com> be transferred to the Complainant.

/Andrea Mondini/

Andrea Mondini

Sole Panelist

Date: September 14, 2022