

## **ADMINISTRATIVE PANEL DECISION**

Urban Outfitters Inc. v. Super Privacy Service LTD c/o Dynadot /  
Domain Administrator, Domain Name Corporation  
Case No. D2022-2928

### **1. The Parties**

The Complainant is Urban Outfitters Inc., United States of America, represented by SafeNames Ltd., United Kingdom.

The Respondent is Super Privacy Service LTD c/o Dynadot, United States of America / Domain Administrator, Domain Name Corporation, United Kingdom.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 8, 2022. On August 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 10, 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 August 11, 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 August 12, 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 August 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 4, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 5, 2022.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on September 9, 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 ANTHROPOLOGIE trademark is used by a subsidiary of the Complainant in connection with merchandise and store environment targeting women aged 28-45. The Complainant owns through its subsidiaries a number of registrations for the trademark ANTHROPOLOGIE such as United States Trademark Registration No. 1,814,261 registered on December 28, 1993.

The disputed domain name was registered on July 7, 2021 and resolves to a webpage that sells products similar to those offered by the Complainant.

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

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

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's trademark ANTHROPOLOGIE. The disputed domain name reproduces the trademark ANTHROPOLOGIE in full preceded by the article "the". The trademark remains recognizable. The generic Top-Level Domain ("gTLD") ".com" should be ignored when assessing confusing similarity.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not authorized by the Complainant to use its trademark and is not connected to the Complainant. The Respondent has no rights in the trademark. The Complainant submits that there is no use or preparation to use the disputed domain name in connection with a *bona fide* offering of goods or services. The disputed domain name resolves to a website, which purports to pass off as the Complainant's website through selling competing products. The Complainant submits that the Respondent is not known by the disputed domain name. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name. The Respondent is trying to pass off the disputed domain name as the Complainant's website to sell competing and unauthorized goods.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant's trademark has accrued good will and recognition and had been registered for more than 25 years before the creation of the disputed domain name. The Complainant operates more than 200 stores around the world and is present on the Internet with an online offering in many languages. The disputed domain name carries a high risk of implied affiliation with the Complainant's offerings under the trademark ANTHROPOLOGIE. The Respondent is trying to pass off the disputed domain name as the Complainant's website to sell competing and unauthorized goods. A simple due diligence by the Respondent would have allowed the Respondent to find information about the Complainant and its trademark. The Complainant contends that the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark as the disputed domain name incorporates the trademark of the Complainant in full. The Respondent has used the disputed domain name to pass off as the Complainant through selling competing products and using the Complainant's trademark on his website and without including any disclaimers. This is an illegitimate use.

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

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

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

The Complainant owns trademark registrations for the trademark ANTHROPOLOGIE through its subsidiary companies. The Panel is satisfied that the Complainant has established its ownership of the trademark ANTHROPOLOGIE. The disputed domain name comprises the Complainant's trademark ANTHROPOLOGIE in its entirety. The article "the" does not prevent the fact that the disputed domain name is confusingly similar to the Complainant's trademark.

The gTLD, ".com" should generally be ignored when assessing confusing similarity as established by prior UDRP decisions.

Consequently, the Panel finds that the disputed domain name is confusingly similar to the trademark of the Complainant and that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

### B. Rights or Legitimate Interests

A complainant must make at least a *prima facie* showing that a respondent does not have any rights or legitimate interests in the disputed domain name. Once such showing is made, the burden of production shifts to the respondent. In the instant case, the Complainant asserts that the Respondent is not authorized by the Complainant to use its trademark. Therefore, the Complainant has established a *prima facie* case and the burden of production shifts to the Respondent to show that it has rights or legitimate interests.

The disputed domain name resolves to a website through which products similar to those offered by the Complainant are being sold. In other words, the disputed domain name is being used to sell competing products. Prior Panels have held that a respondent is not using a domain name for a *bona fide* offering of goods or services if it uses the domain name for competing products. The use of the Complainant's trademark which has a reputation for offering the type of products being offered by the Respondent is not fair as the Respondent's website does not include a disclaimer that it is not connected with the Complainant, and it gives the impression of being the Complainant's website or affiliated to it. See *CareSource v. Domain Administrator*, See *PrivacyGuardian.org/FAG*, WIPO Case No. [D2018-2411](#).

Furthermore, the absence of a response by the Respondent allows the Panel to draw inferences, and under the circumstances, the absence of response leaves the Complainant's *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name un rebutted.

Consequently, the Panel finds that the Complainant has met the requirement under the Policy of showing that the Respondent does not have any rights or legitimate interests in the disputed domain name. Accordingly, the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

### C. Registered or Used in Bad Faith

The Complainant has been using the trademark ANTHROPOLOGIE for more than 25 years when the Respondent created the disputed domain name. The disputed domain name resolves to a website, which offers products similar to those offered by the Complainant. As such, the disputed domain name has been registered in order to attract Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement. It has been found by prior UDRP panels that such use of a domain name constitutes bad faith, See *Gilead Sciences, Inc. v. Adewale Tokosi*, WIPO Case No. [D2021-0961](#).

Such conduct falls squarely within the meaning of paragraph 4(b)(iv) of the Policy, and accordingly, the Panel finds that 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 <theanthropologie.com> be transferred to the Complainant.

*/Nayiri Boghossian/*

**Nayiri Boghossian**

Sole Panelist

Date: September 23, 2022