

ADMINISTRATIVE PANEL DECISION

Coastal Cotton Clothing, LLC, Michael Adam Pickron v. Xin Wang
Case No. D2022-4245

1. The Parties

The Complainant is Coastal Cotton Clothing, LLC, Michael Adam Pickron, United States of America (“United States”), represented by Maynard, Cooper & Gale, P.C., United States.

The Respondent is Xin Wang, China.

2. The Domain Name and Registrar

The disputed domain name <coastal-cotton.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 November 8, 2022. On November 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 10, 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 November 16, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 6, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 7, 2022.

The Center appointed Luca Barbero as the sole panelist in this matter on December 15, 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 United States clothing retailer which is the owner, amongst others, of the United States trademark registration No. 4792728 for COASTALCOTTON (word mark), registered on August 18, 2015 in international class 25.

The Complainant is also the owner of the United States trademark registration No. 4205676 (figurative mark, consisting of the stylized design of a fish skeleton), registered on September 11, 2012, in international class 25.

In addition to the above, the Complainant owns the domain name <coastalcottonclothing.com>, which was registered on September 28, 2011, and is used by the Complainant to advertise and offer for sale its clothing products under the trademark COASTAL CLOTHING.

The disputed domain name <coastal-cotton.com> was registered on August 16, 2022, and is pointed to a website publishing the Complainant's trademarks and images taken from the Complainant's website at <coastalcottonclothing.com>, offering for sale purported COASTALCOTTON products at discounted prices.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to its trademark COASTALCOTTON.

With reference to rights or legitimate interests in respect of the disputed domain name, the Complainant states that the Respondent is not commonly known by the disputed domain name and submits that the Respondent lacks rights and legitimate interest in the disputed domain name since he is using the disputed domain name to impersonate the Complainant, purportedly selling the Complainant's goods, which are likely counterfeit.

The Complainant highlights that the Respondent has failed to prominently disclose his lack of authorization or affiliation with the Complainant on his website and contends that the Respondent's only purpose is to deceive consumers who are seeking the Complainant's goods, into buying counterfeit goods from his website, for commercial gain. The Complainant concludes that the Respondent's use does not constitute a *bona fide* offering of goods or services or a legitimate noncommercial or fair use.

With reference to the circumstances evidencing bad faith, the Complainant indicates that, considering its registration of the trademark COASTALCOTTON long predates the Respondent's registration of the disputed domain name, that the disputed domain name is confusingly similar to the Complainant's prior well-known trademark and that the Respondent published on his website content taken from the Complainant's website, the Respondent registered the disputed domain name to target the Complainant and its trademarks, in the attempt to attract, for commercial gain, potential customers to his website, by creating a likelihood of confusion with the trademark COASTALCOTTON as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules: “A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.” Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

- (i) that the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights over the trademark COASTALCOTTON based on the United States word trademark registration cited under section 4 above.

As highlighted in section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), the first element functions primarily as a standing requirement, and the threshold test for confusing similarity typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

In the case at hand, the disputed domain name entirely reproduces the trademark COASTALCOTTON with the mere addition of a hyphen between the words “coastal” and “cotton”. Previous UDRP decisions have found that the mere addition of symbols such as a hyphen to a trademark in a domain name does not prevent a finding of confusing similarity. See, amongst others, *NG Biotech v. Whois Agent, Domain Protection Services, Inc. / Patrice SARDA*, WIPO Case No. [D2021-0177](#).

Moreover, the Panel finds that the generic Top-Level Domain suffix “.com” can be disregarded being a mere technical requirement of registration. See section 1.11.1 of the [WIPO Overview 3.0](#).

Therefore, the Panel finds that the Complainant has proven that the disputed domain name is confusingly similar to a trademark in which the Complainant has established rights according to paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant must show that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent may establish a right or legitimate interest in the disputed domain name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

“(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

In the case at hand, by not submitting a Response, the Respondent has failed to invoke any circumstance that could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in the disputed domain name.

According to the evidence on record, there is no relationship between the Complainant and the Respondent and the Complainant has not authorized the Respondent to register or use its trademark or the disputed domain name. Moreover, there is no indication before the Panel that the Respondent is commonly known by the disputed domain name.

As mentioned above, the disputed domain name is pointed to a website displaying the Complainant's trademarks and images taken from the Complainant's official website and offering for sale purported COASTALCOTTON products, without displaying any disclaimer of non-affiliation with the Complainant. The Panel finds that users visiting the Respondent's website may be misled into believing that the website is operated by the Complainant or one of its affiliated entities.

In view of the above-described use of the disputed domain name, the Panel finds that the Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant's trademark.

Furthermore, as stated in section 2.13.1 of the [WIPO Overview 3.0](#), prior panels have categorically held that the use of a domain name for impersonation/passing off cannot confer rights or legitimate interests on a respondent.

Therefore, the Panel finds that the Complainant has proven that the Respondent has no rights or legitimate interests in the disputed domain name according to paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the Complainant prove that the disputed domain name was registered and is being used by the Respondent in bad faith.

As to bad faith at the time of the registration, the Panel finds that, in light of the prior registration and use of the Complainant's trademark COASTALCOTTON in connection with the Complainant's clothing goods and of the virtual identity of the disputed domain name with the Complainant's trademark, the Respondent very likely registered the disputed domain name having the Complainant's trademark in mind.

The circumstance that the disputed domain name has been pointed to a website featuring the Complainant's trademarks, images and products, supports the finding that the Respondent was indeed well aware of the Complainant and its trademarks.

The Panel also finds that, by pointing the disputed domain name to a website promoting and offering for sale purported COASTALCOTTON products, publishing the Complainant's trademark and images taken from the Complainant's website and failing to accurately and prominently disclose the relationship with the trademark owner, the Respondent intentionally attempted to attract Internet users to his website for commercial gain, by causing a likelihood of confusion with the trademark COASTALCOTTON as to the source, sponsorship, affiliation or endorsement of his website and the products promoted therein, according to paragraph 4(b)(iv) of the Policy.

Therefore, the Panel finds that the Complainant has also proven that the Respondent registered and is using the disputed domain name in bad faith according to 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 <coastal-cotton.com> be transferred to the Complainant.

/Luca Barbero/

Luca Barbero

Sole Panelist

Date: December 28, 2022