

## **ADMINISTRATIVE PANEL DECISION**

Karl Lagerfeld B.V. v. Hongdong Hu  
Case No. D2022-4375

### **1. The Parties**

The Complainant is Karl Lagerfeld B.V., Netherlands, represented by Novagraaf Nederland B.V., Netherlands.

The Respondent is Hongdong Hu, China.

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

The disputed domain name <karllagerfeldshop.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 17, 2022. On November 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 18, 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 December 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 21, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 22, 2022.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on December 29, 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 renowned high end fashion producer operating under the brand KARL LAGERFELD. The Complainant owns a number of registrations for the trademark KARL LAGERFELD such as International Trademark Registration No. 487965, registered on August 30, 1984.

The disputed domain name was registered on December 9, 2021 and resolves to a webpage that sells products bearing the Complainant's mark.

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

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

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's trademark KARL LAGERFELD. The disputed domain name is phonetically, visually, and conceptually confusingly similar to the Complainant's trademark. The disputed domain name reproduces the trademark KARL LAGERFELD in full. The use of the term "shop" does not create sufficient dissimilarity. On the contrary, it suggests affiliation with the Complainant.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. Domain names that carry a high risk of implied affiliation cannot constitute fair use. 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 Respondent is not making a legitimate noncommercial or fair use of the disputed domain name. The disputed domain name sells counterfeit products of the Complainant. The Respondent was aware of the Complainant's trademark.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant's trademark was well established before the creation of the disputed domain name. 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 with the addition of the element "shop". This is a bait and switch selling as competitive counterfeit products are being sold. This is bad faith use that disrupts the business of the Complainant. The website to which the disputed domain name resolves displays the trademark and logo of the Complainant. The Respondent has registered multiple domain names consisting of third party trademarks. There is a potential of using the disputed domain name for criminal activities such as phishing.

##### **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 KARL LAGERFELD. The Panel is satisfied that the Complainant has established its ownership of the trademark KARL LAGERFELD. The disputed domain name comprises the Complainant's trademark KARL LAGERFELD in its entirety. The term "shop" does not prevent the fact that the disputed domain name is confusingly similar to the Complainant's trademark.

The generic Top-Level Domain ("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. The Panel finds on the case file that 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 Panel finds it necessary to assess whether there is a *bona fide* offering of goods or services as the disputed domain name resolves to a website through which products bearing the Complainant's trademark seem to be sold. The Panel finds that the website to which the disputed domain name resolves offers counterfeit products as the prices of these products cannot be the prices of genuine products. The conduct of selling counterfeit cannot confer rights or legitimate interests.

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's trademark KARL LAGERFELD is well known and had been registered four decades before the creation of the disputed domain name. The disputed domain name resolves to a website, which offers counterfeit products of the Complainant. As such, the disputed domain name has been registered in order to attract, for commercial gain, 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, <karllagerfeldshop.com>, be transferred to the Complainant.

*/Nayiri Boghossian/*

**Nayiri Boghossian**

Sole Panelist

Date: January 12, 2023