

## **ADMINISTRATIVE PANEL DECISION**

Caroll International v. Courtney Davis

Case No. D2022-4834

### **1. The Parties**

The Complainant is Caroll International, France, represented by Inlex IP Expertise, France.

The Respondent is Courtney Davis, United States of America.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 16, 2022. On December 16, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 17, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on December 19, 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 December 20, 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 December 22, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 11, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 12, 2023.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on January 17, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

The Complainant is a French clothing brand for women created in 1963. The Complainant's products are sold through its more than 500 stores in France and abroad as well through the Complainant's website. The website is multilingual and the Complainant's turnover for 2018 was about EUR 182.31 million.

The Complainant owns the trademark CAROLL since 1983, including French trademark registration No. 1233265, registered on April 15, 1983. The Complainant also has registered several domain names that direct to the Complainant's official website at "www.caroll.com". The Complainant has a high number of followers on social media.

According to the Complainant, the Domain Name was registered on October 20, 2022. Before filing of the Complaint, the Domain Name has resolved to a website that gave the appearance of an official website offering the Complainant's products. At the time of drafting the Decision, the Domain Name resolves to a parking page providing sponsored links for clothes and mattresses.

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

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

The Complainant documents registered trademark rights and argues that the trademark is known worldwide. The Complainant argues that the Domain Name is confusingly similar to the Complainant's CAROLL trademark. The addition of the descriptive element "outlet" does not distinguish the Domain Name from the Complainant's trademark.

The Complainant argues that there is no evidence to support that the Respondent is commonly known by the Domain Name. The Respondent cannot establish rights or legitimate interests in the Domain Name, as the Respondent has not made any use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering of goods or services. The use of the Domain Name – as described above under the factual background - is not *bona fide*.

The Complainant submits that its trademark is well known, and the Complainant's trademark rights are prior to the Respondent's registration of the Domain Name. Further, the Respondent has employed a privacy service in order to hide its identity to avoid being notified of a UDRP proceeding. The information provided by the Registrar is inconsistent and probably false. The Respondent attempts to attract Internet users for commercial gain by creating a likelihood of confusion with the Complainant's trademark. The Respondent is likely to earn pay-per-click revenue in relation to the sponsored links.

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

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

#### **6. Discussion and Findings**

##### **A. Identical or Confusingly Similar**

The Complainant has established rights in its trademark CAROLL. The test for confusing similarity involves a comparison between the trademark and the Domain Name. The Domain Name incorporates the Complainant's trademark with the word "outlet" at the front. This does not prevent a finding of confusing similarity.

For the purposes of assessing confusing similarity under paragraph 4(a)(i) of the Policy, it is permissible for the Panel to ignore the generic Top-Level Domain (“gTLD”) as it is viewed as a standard registration requirement, see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) section 1.11.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

### **B. Rights or Legitimate Interests**

The Respondent is not affiliated with nor authorized by the Complainant. There is no evidence that the Respondent is commonly known by the Domain Name. The Respondent cannot establish rights in the Domain Name, as it has not made use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering. On the contrary, the use suggests bad faith (see below).

The Panel finds that the Complainant has made out a *prima facie* case showing that the Respondent has no rights or legitimate interests in the Domain Name, which has been unrebutted by the Respondent.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

The Complainant’s trademarks were registered long before the Respondent’s registration of the Domain Name. The composition and use of the Domain Name suggest that the Respondent was aware of the Complainant’s trademark when the Respondent registered the Domain Name.

The Domain Name seems to be registered to attract Internet users by misleading them into believing that the initial website at the Domain Name is somehow connected to the Complainant. The current use is also evidence of bad faith. It misleads Internet users for the benefit of the Respondent’s pay-per-click revenue.

The Respondent has not replied to the Complainant’s contentions, and not provided any evidence of good faith use. Moreover, the Respondent appears to have provided inconsistent and probably false contact details behind the Registrar’s privacy shield.

The Panel finds that the Domain Name was registered and is being used in bad faith, within the meaning of the 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 Domain Name <outletcaroll.com> be transferred to the Complainant.

*/Mathias Lilleengen/*

**Mathias Lilleengen**

Sole Panelist

Date: January 19, 2023