

## **ADMINISTRATIVE PANEL DECISION**

Authentic Brands Group, LLC v. Ev Vincent  
Case No. D2023-0612

### **1. The Parties**

Complainant is Authentic Brands Group, LLC, United States of America (“United States”), represented by Authentic Brands Group, United States.

Respondent is Ev Vincent, United States.

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

The disputed domain name <authenticbrands.com> (the “Domain Name”) is registered with Wild West Domains, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 9, 2023. On February 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 13, 2023, 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 to Complainant on February 16, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on February 17, 2023.

The Center verified that the Complaint together with the amendment to 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 Respondent of the Complaint, and the proceedings commenced on February 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 20, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on March 21, 2023.

The Center appointed Robert A. Badgley as the sole panelist in this matter on March 24, 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 by the Center to ensure compliance with the Rules, paragraph 7.

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

Complainant alleges that it “owns a global portfolio of iconic and world-renowned media, entertainment, sport, luxe, fashion, beauty and wellness, home, active and outdoor brands”. Complainant asserts that it “connects strong brands with best-in-class partners and a global network of operators, distributors and retailers to build long-term value in the marketplace”.

According to the Complaint, “Complainant acquired its first brand in 2011 and has expanded its acquisition portfolio over the last decade to over 50 global brands, including but not limited to, Reebok, Elvis Presley, Judith leiber, Marilyn Monroe, Lucky Brand, David Beckham, Forever 21, Shaquille O’Neal, Barneys New York, Nine West, Nautica, Eddie Bauer, Juicy Couture and Muhammad Ali”.

Complainant does not hold a registered trademark for its branding services, but asserts that it has extensively used AUTHENTIC BRANDS as a source identifier to market its services. Complainant owns the domain name <authenticbrands.com>, which domain name resolves to a website at the domain name <authentic.com>, where Complainant hosts a commercial website.

The Domain Name was registered on March 11, 2022. The Domain Name does not resolve to a website. Complainant asserts that it has no affiliation with Respondent, and that it has not authorized Respondent to use its AUTHENTIC BRANDS trademark in a domain name or otherwise.

According to Complainant, and as corroborated by emails annexed to the Complaint, Respondent has been using the Domain Name to create a bogus email address and impersonate Complainant in a scam directed to Complainant’s business partners. In one such instance, Respondent sent a fake email dated February 6, 2023, purportedly from a real Complainant employee (identified as a “billing and collections specialist” whose email signature block also bears Complainant’s logo and street address) to a client of Complainant. In the fake email, Respondent seeks to offer a one-time discount if the client remits payment within a brief time period.

Respondent has not denied any of the foregoing allegations or disputed any of the evidence submitted by Complainant.

#### **5. Parties’ Contentions**

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

Complainant contends that it has satisfied all three elements required under the Policy for a transfer of the Domain Name.

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

Respondent did not reply to Complainant’s contentions.

## 6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

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

### A. Identical or Confusingly Similar

The Panel concludes that Complainant has rights in the trademark AUTHENTIC BRANDS, for purposes of the Policy, through use demonstrated in the record. The Panel also concludes that the Domain Name is confusingly similar to that mark. The Domain Name incorporates the entire trademark and adds the letter “h” to create a slight misspelling of “authentic”. Despite this typo, the AUTHENTIC BRANDS mark remains clearly recognizable within the Domain Name.

Complainant has established Policy paragraph 4(a)(i).

### B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] 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 [Respondent] (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 [Respondent] are making a legitimate noncommercial 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.

The Panel concludes that Respondent lacks rights or legitimate interests in connection with the Domain Name. Respondent has not come forward in this proceeding to articulate or prove any *bona fide* basis for registering the Domain Name.

On this undisputed record, it is obvious that Respondent was aware of the AUTHENTIC BRANDS mark when he registered the Domain Name. His use of the Domain Name to create fake emails, using the name of an actual Complainant employee and using Complainant’s logo and street address, makes this conclusion inescapable. It is also undisputed that Complainant never authorized Respondent to use its mark in a domain name or otherwise.

The undisputed record also shows that Respondent sent fraudulent emails to Complainant’s customers seeking to dupe these customers out of money.

In short, the undisputed record shows that Respondent’s motives and conduct *vis-à-vis* the Domain Name are entirely fraudulent in nature. Obviously, Respondent lacks rights or legitimate interests in the Domain Name.

Complainant has established Policy paragraph 4(a)(ii).

### C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation”, are evidence of the registration and use of the Domain Name in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

The Panel concludes that Respondent registered and used the Domain Name in bad faith under the Policy. The Panel incorporates its discussion above in the “Rights or Legitimate Interests” section.

Respondent clearly had Complainant’s mark in mind when registering the Domain Name, as is clear from the use to which Respondent put the Domain Name (setting up a fake email using the name of an actual Complainant employee to defraud Complainant’s business partners).

On this record, the Panel finds that Respondent has registered and used the Domain Name in bad faith within the meaning of the above-quoted Policy paragraph 4(b)(iv).

Complainant has established Policy paragraph 4(a)(iii).

### 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 <authenticbrands.com> be transferred to Complainant.

*/Robert A. Badgley/*

**Robert A. Badgley**

Sole Panelist

Date: April 7, 2023