

## **ADMINISTRATIVE PANEL DECISION**

Hill House Home, Inc. v. Scarl Di  
Case No. D2023-2252

### **1. The Parties**

The Complainant is Hill House Home, Inc., United States of America, represented by Fixer Advisory Group, United States of America.

The Respondent is Scarl Di, United States of America.

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

The disputed domain name, <hillhousehomeoutlet.shop>, is registered with NameCheap, Inc. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 24, 2023. On May 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 24, 2023, 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 and contact information in the Complaint.

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 June 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 27, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 29, 2023.

The Center appointed Dennis A. Foster as the sole panelist in this matter on July 10, 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**

Since 2013, the Complainant has operated an on-line sales service offering a variety of clothing, accessories and home furnishings at the domain name <hillhousehome.com>. The Complainant obtained a trademark for HILL HOUSE HOME from the United States Patent and Trademark Office (USPTO) on March 8, 2016, no. 86677364.

The Respondent registered the disputed domain name on March 10, 2023. The Respondent's website at the disputed domain name offers for sale goods that appear to be identical to the goods for sale on the Complainant's website.

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

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

- The Complainant has run an on-line shopping service on its website at "www.hillhousehome.com" since 2013.
- On March 10, 2023, the Respondent registered the disputed domain name and began offering for sale items that were identical to the items for sale on the Complainant's website.
- The disputed domain name is confusingly similar to the Complainant's HILL HOUSE HOME trademark.
- The Respondent has no relationship with the Complainant, has received no permission to use the Complainant's HILL HOUSE HOME trademark, and has no rights or legitimate interests in the disputed domain name.
- The Respondent has registered and is using the disputed domain name in bad faith per paragraph 4(b)(iv) of the Policy in that the Respondent has registered a domain name confusingly similar to the Complainant's trademark for financial gain.

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

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

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

Under paragraph 4(a)(i-iii) of the Policy, the Complainant may prevail in this proceeding and obtain a transfer of the disputed domain name if it can prove that:

- the domain name is identical or confusingly similar to a name in which the Complainant has trademark rights; and
- the Respondent has no rights or legitimate interests in the domain name; and
- the domain name has been registered and is being used in bad faith.

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

The Complainant has provided a copy of its HILL HOUSE HOME trademark registration as registered with the USPTO, no. 86677364 dated March 8, 2016, classes 24, 25, covering clothing, bed linen and similar goods. The Panel finds this is proof that the Complainant has trademark rights over HILL HOUSE HOME

(See [WIPO Overview 3](#), section 1.2.1: “Where the complainant holds a nationally or regionally registered trademark or service mark, this *prima facie* satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case.”).

The disputed domain name is not identical to the Complainant’s trademark because the Respondent has added the word “outlet”. However, the Panel finds that “outlet” is a logical add-on to the Complainant’s HILL HOUSE HOME trademark, and the disputed domain name is confusingly similar to the Complainant’s trademark.

The general top level domain (gTLD) “.shop” is not taken into consideration for determining identity or confusing similarity because all domain names must have a gTLD (See [WIPO Overview 3](#), section 1.1: “The applicable Top Level Domain (“TLD”) in a domain name (e.g., .com) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.”).

The Panel therefore finds that the Complainant has carried its burden of proof under paragraph 4(a)(i) of the Policy.

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

Owing to the difficulty of proving the negative proposition that a respondent does not have rights or legitimate interests in a disputed domain name, it is now the consensus in Policy decisions that it is sufficient for a complainant to put forth a *prima facie* case, and then the burden of production shifts to the respondent. In the case at hand, the Complainant states that the Respondent has no relationship with the Complainant, and that the Complainant has given no permission to the Respondent to use the Complainant’s HILL HOUSE HOME trademark in the disputed domain name. The Panel finds that this constitutes a *prima facie* case on the Complainant’s behalf. (See [WIPO Overview 3.0](#), section 2.1)

The Respondent has not filed a response in this proceeding, but the Panel will nonetheless look at the record to see whether there might be evidence of the Respondent’s rights and legitimate interests per Policy paragraph 4(c)(i-iii).

The Respondent is using the website at the disputed domain name to offer for sale goods that are identical to the goods on the Complainant’s website. The Panel finds this is not a *bona fide* offering of goods and services per paragraph 4(c)(i) of the Policy as will be discussed further below in the Bad Faith section of this Decision. (See, for example, *xHamster IP Holdings Ltd v. Hadu, estoniadr@gmail.com*, WIPO Case No. [D2019-3142](#) where the Respondent’s bad faith use of the disputed domain name could not qualify as a “bona fide offering of goods and services” under Policy paragraph 4(c)(i).)

Nor is there any indication in the case file that the Respondent has been known by the disputed domain name per Policy paragraph 4(c)(ii).

And finally, it is nowhere apparent that the Respondent is using the disputed domain name for noncommercial or fair use purposes per Policy paragraph 4(c)(iii). On the contrary, the Complainant’s use of the disputed domain name to sell goods at its website is eminently commercial.

The Panel thus finds that the Complainant has carried its burden of proof to show that the Respondent has no rights or legitimate interests in the disputed domain name per paragraph 4(a)(ii) of the Policy.

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

Since the Respondent registered the disputed domain name on March 10, 2023, no doubt fully aware of the Complainant’s pre-existing trademark and website sales business, the Respondent has used it to copy the Complainant’s website and to offer some of the same goods for sale. The Panel agrees with the Complainant that this is a direct violation of the bad faith provisions at Policy paragraph 4(b)(iv):

“(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

The Panel thus finds that the Complainant has sustained its burden of proof under paragraph 4(a)(iii) of the Policy to show that the Respondent registered and is using the disputed domain in bad faith.

## **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, <hillhousehomeoutlet.shop>, be transferred to the Complainant.

*/Dennis A. Foster/*

**Dennis A. Foster**

Sole Panelist

Date: July 24, 2023