

ADMINISTRATIVE PANEL DECISION

Cutting Edge Ventures Limited, Naked Wolfe Footwear Pty. Ltd. v. KAI YIP CHEUNG

Case No. D2023-2346

1. The Parties

The Complainants are Cutting Edge Ventures Limited, Seychelles, and Naked Wolfe Footwear Pty. Ltd., Australia, represented by Landmark B.V., Netherlands (Kingdom of the).

The Respondent is KAI YIP CHEUNG, United States of America (“United States”).

2. The Domain Names and Registrar

The disputed domain names <nakedwolfe.shop> and <nakedwolfe.art> are registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 31, 2023 regarding the disputed domain name <nakedwolfe.shop>. On May 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with this disputed domain name. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for this disputed domain name which differed from the named Respondent (REDACTED FOR PRIVACY, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainants on June 5, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amendment to the Complaint on June 5, 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 the Respondent of the Complaint, and the proceedings commenced on June 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 25, 2023.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on August 2, 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.

On August 11, 2023, the Complainants submitted a request for the addition of the disputed domain name <nakedwolfe.art> to the current proceeding. On August 28, 2023, the Center at the Panel's instruction transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name <nakedwolfe.art>. On August 30, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name <nakedwolfe.art>.

On September 6, 2023, the Center issued at the Panel's instruction the Administrative Panel Procedural Order No. 1 to the Parties, requesting the Complainants to provide an amended Complaint including the disputed domain name <nakedwolfe.art> by September 11, 2023. The Respondent was invited by September 21, 2023 to file a Response in respect of the disputed domain name <nakedwolfe.art> as it may deem appropriate. The decision due date was extended until September 28, 2023.

On September 8, 2023, the Complainants submitted the amended Complaint. No response has been received from the Respondent concerning the Administrative Panel Procedural Order No. 1.

4. Factual Background

The Complainants belong to the same group of businesses run by the family Mance, and offer luxury fashion footwear, accessories and clothing for men and women. The Complainants operates their main website at "www.nakedwolfe.com".

The Complainants own several trademark registrations for NAKED WOLFE, among which:

- European Union Trademark Registration No. 015170351 for NAKED WOLFE, applied on March 1, 2016, registered on April 27, 2017, in the name of the Complainant Cutting Edge Ventures Limited;
- United States Trademark Registration No. 5503628 for NAKED WOLFE, applied on February 18, 2016, registered on June 26, 2018, in the name of the Complainant Cutting Edge Ventures Limited;
- Canada Trademark Registration No. TMA1002649 for NAKED WOLFE, applied on February 17, 2016, registered on August 13, 2018, in the name of the Complainant Cutting Edge Ventures Limited;
- United Kingdom Trademark Registration No. UK00915170351 for NAKED WOLFE, applied on March 1, 2016, registered on April 27, 2017, in the name of the Complainant Cutting Edge Ventures Limited;
- International trademark registration No. 1338046 for NAKED WOLFE, registered on December 19, 2016, in the name of the Complainant Naked Wolfe Footwear Pty. Ltd.

The disputed domain name <nakedwolfe.shop> was registered on December 28, 2021, and previously resolved to a website which used the Complainants' trademark and logo, as well as copyright-protected materials and purported to sell the Complainants' products. The Complainants filed the complaints to take down the website with three registrars. The Complainants also sent a cease and desist letter to the Respondent on March 6, 2023 that was not answered.

The disputed domain name <nakedwolfe.art> was registered on August 6, 2023, and resolved to a website which also used the Complainants' trademark and logo, as well as copyright-protected materials and purported to sell the Complainants' products. The disputed domain name <nakedwolfe.shop> at one time redirected to the website at the disputed domain name <nakedwolfe.art>.

At the time of this decision, the disputed domain names are inactive.

5. Parties' Contentions

A. Complainants

The Complainants request the transfer of the disputed domain names.

The Complainants are of the opinion that the disputed domain names are confusingly similar to their trademarks.

Furthermore, the Complainants argue that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

Finally, it is argued that the Respondent has registered and is using the disputed domain names in bad faith.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

6.1 Procedural Issue: Addition of Domain Name

According to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.12.2, "Requests for addition of domain names to a complaint after it has been notified to the respondent and the proceedings have formally commenced would be addressed by the panel on appointment". On August 11, 2023, the Complainants submitted by email their request to add the disputed domain name <nakedwolfe.art> to the proceeding claiming that it was registered on August 6, 2023, and the disputed domain name <nakedwolfe.shop> now redirected to the website at the disputed domain name <nakedwolfe.art>.

Considering a) the disputed domain name <nakedwolfe.art> was registered after the commencement of the proceeding, b) it has the same naming pattern and registrant as the other disputed domain name, c) the other disputed domain name redirected to the disputed domain name <nakedwolfe.art>, the Panel finds that it would be practical, fair, and efficient to allow the Complainants' request to add another disputed domain name to this proceeding. Therefore, the Complainants' request for addition of the disputed domain name <nakedwolfe.art> is granted.

6.2 Substantive Issues: Three Elements

Paragraph 4(a) of the Policy lists three elements, which a complainant must satisfy in order to succeed. The Complainants must satisfy that:

- (i) the disputed domain names are identical or confusingly similar to the trademark or service mark in which the Complainants have rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainants' trademark and the disputed domain names. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainants have shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is recognizable within the disputed domain names. Accordingly, the disputed domain names are identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds that the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in the disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

The Complainants have claimed that, at the time of filing the Complaint, the disputed domain name <nakedwolfe.shop> initially resolved to an online store that was using the images of the Complainants' products, displaying the Complainants' trademark and logo without its authorization, and purportedly offering for sale the Complainants' products. The Complainants have also provided evidence showing that customers filed complaints with a third party review website indicating they either never received any products or received products with poor quality after purchasing from the website at the disputed domain name <nakedwolfe.shop>. This disputed domain name later on redirected to the website at the disputed domain name <nakedwolfe.art>, which was used in a similar way.

The Panel finds that the Complainants have therefore established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainants' *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names.

The Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor made demonstrable preparations to use, the disputed domain names or a name corresponding to the disputed domain names in connection with a *bona fide* offering of goods or services. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.
- the Respondent (as an individual, business, or other organization) has not been commonly known by the disputed domain names. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.
- the Respondent is not making a legitimate noncommercial or fair use of the disputed domain names, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.

- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the disputed domain names.

Furthermore, the composition of the disputed domain names, comprising the Complainants' trademarks in their entirety, carries a high risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Panel considers that the record of this case reflects that:

- The disputed domain names contains the complete mark of the Complainants with the addition of the ".shop" and ".art" extensions.
- The disputed domain names resolved to a website using the images of the Complainants' products and their trademark and logo.
- Customers purchased from the website at the disputed domain name <nakedwolfe.shop> either never received any products or received products with poor quality.
- According to the Complainants, the contact details mentioned on the websites at the disputed domain name appears to be fake.

Considering the above, the Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its websites or other on-line locations, by creating a likelihood of confusion with the Complainants' mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or locations or of a product or service on the Respondent's websites or locations. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy.

The current non-use of the disputed domain names does not change the Panel's finding on the Respondent's bad faith.

Based on the available record, the Panel finds the third element of the Policy has been established.

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 names <nakedwolfe.shop> and <nakedwolfe.art> be transferred to the Complainant Cutting Edge Ventures Limited.

/Pablo A. Palazzi/

Pablo A. Palazzi

Sole Panelist

Date: September 28, 2023