

## **ADMINISTRATIVE PANEL DECISION**

Pipes & Shaw, LLC d/b/a Veronica Beard v. Zlub kova  
Case No. D2023-3138

### **1. The Parties**

The Complainant is Pipes & Shaw, LLC d/b/a Veronica Beard, United States of America (“United States”), represented by Fixer Advisory Group, United States.

The Respondent is Zlub kova, United States.

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

The disputed domain name <veronicaus.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 July 20, 2023. On July 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 21, 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.

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 July 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 17, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Parties of the Respondent’s default on August 18, 2023.

The Center appointed Ingrīda Kariņa-Bērziņa as the sole panelist in this matter on September 1, 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**

The Complainant is an American company that designs and markets fashionable women's clothing under the "Veronica Beard" brand. It is the proprietor of several trademark registrations, including the following:

- United States Trademark Registration No. 4630563 for VERONICA BEARD (word mark), registered on November 4, 2014 for goods in class 25, claiming a date of first use of January 2010;
- United States Trademark Registration No. 4630564 for VERONICA BEARD (word mark), registered on November 4, 2014 for services in class 35.

The Complainant operates its primary e-commerce website at the domain name <veronicabeard.com>, which was registered on November 20, 2009.

The disputed domain name was registered on April 7, 2023. It resolves to an e-commerce site offering women's clothing using images, product names and product descriptions identical to those found on the Complainant's website. The icon visible in the browser tab of this website was previously identical to the "VB" logo visible in the Complainant's website.

There is no information available about the Respondent.

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

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

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the Respondent uses the disputed domain name which includes a portion of the Complainant's registered trademark VERONICA BEARD to sell the exact goods and designs as the Complainant. The disputed domain name is clearly intended to be confusingly similar to a consumer by combining the word "veronica" with "us" and "shop." The Respondent uses the same stylized VB logo in the website tab, the same VERONICA BEARD stylized logo on the landing page, identical model images and VERONICA BEARD mark on each product image. The Respondent displays and sells not only the same products, but has fully copied product names, descriptions, categories (e.g., "Bestsellers" and "Cult Classic Jackets") and model images. Based on the totality of the use and appearance of the disputed domain name, it is clear that the Respondent is acting in bad faith with an intent to create a likelihood of confusion with the Complainant's mark and legitimate website. The Respondent is using the disputed domain name in bad faith to mislead consumers and divert web traffic in order to illegitimately acquire personal information while tarnishing the Complainant's reputation.

The Complainant requests transfer of the disputed domain name.

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

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

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

Paragraph 4(a) of the UDRP requires the Complainant to make out all three of the following:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

- (ii) The Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) The Respondent has registered and is using the disputed domain names in bad faith.

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

### **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 Complainant’s trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 1.7.

Based on the available record, the Panel finds the Complainant has 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 mark is recognizable within the disputed domain name. Also taking into account the obvious similarities with the Complainant’s website, it is clear that the disputed domain name targets Complainant’s VERONICA BEARD mark. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms (here, “us”) may bear on assessment of the second and third elements, the Panel finds the addition of such a term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds 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 a 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.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel finds that the Respondent has misappropriated copyrighted images from the Complainant’s website and copied significant elements thereof, thereby attempting to impersonate the Complainant. Panels have held that the use of a domain name for illegal activity (*e.g.*, the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), sections 2.13.1. and 2.13.2.

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.

In the present case, the Panel notes that by using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the Respondent's website or location. See [WIPO Overview 3.0](#), section 3.1 and Paragraph 4(b)(iv) of the Policy.

Panels have moreover held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel notes the many similarities of the Respondent's website with that of the Complainant, including the product names and descriptions, categories, and photographic images. There can be no doubt that the Respondent is attempting to impersonate the Complainant. The incorporation of the term VERONICA in the disputed domain name, together with the obvious similarities to the Complainant's website, leaves no doubt that the Respondent registered and used the disputed domain name for the specific purpose of impersonating the Complainant.

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 name, <veronicaus.shop>, be transferred to the Complainant.

*/Ingrīda Kariņa-Bērziņa/*

**Ingrīda Kariņa-Bērziņa**

Sole Panelist

Date: September 15, 2023