

ADMINISTRATIVE PANEL DECISION

FLRish IP, LLC v. Makaylawoodson Lawoodson
Case No. D2023-3231

1. The Parties

The Complainant is FLRish IP, LLC, United States of America (“U.S.”), represented by Evoke Law, PC, U.S.

The Respondent is Makaylawoodson Lawoodson, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <shoparborside.net> is registered with Hostinger, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 27, 2023. On July 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 28, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 28, 2023 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 July 28, 2023.

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 August 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 30, 2023.

The Center appointed Mario Soerensen Garcia 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 a California-based cannabis company, which owns several trademarks with the element “harborside” in several jurisdictions, for example:

Trademark/Reg. no.	Class	Status
HARBORSIDE U.S. Reg. No. 5509269	25, 35, 41, 44	Registered on July 3, 2018
HARBORSIDE & design U.S. Reg. No. 5509268	25, 35, 41, 44	Registered on July 3, 2018
HARBORSIDE & design Australia Int'l Reg. No. 1361694	25, 35, 41, 44	Registered on May 15, 2017
HARBORSIDE & design Canada Reg. No. TMA1099853	5, 9, 25, 31, 34, 35, 40, 41	Registered on May 11, 2021
HARBORSIDE & design EUTM Int'l Reg. No. 1361694	25, 35, 41, 44	Registered on May 15, 2017
HARBORSIDE & design Israel Int'l Reg. No. 1361694	25, 35, 41, 44	Registered on May 15, 2017

The Complainant is also the owner of the domain name <shopharborside.com>, registered on August 1st, 2016. The cited domain name resolves to the Complainant’s official website.

The disputed domain name was registered on July 18, 2023. Before filing the Complaint, the disputed domain name resolved to a website displaying the Complainant’s HARBORSIDE mark and HARBORSIDE flag logo, promoting cannabis sale and related products. At the time of filing the Complaint, the disputed domain name resolved to an inactive webpage.

The Complainant’s intellectual property rights for HARBORSIDE predate the registration of the disputed domain name.

5. Parties’ Contentions

A. Complainant

The Complainant argues that the trademark HARBORSIDE appears in its entirety in the disputed domain name.

As a result, the disputed domain name is to be considered identical to the Complainant’s trademarks and domain name.

The Complainant also alleges that the addition of the extension “-net” does not prevent the finding of confusion and similarity with its trademarks and domain names. On the contrary, the extension “.net” directly refers to “online services,” which may be provided by the Complainant.

The disputed domain name has resolved to a webpage which was identical to the Complainant's website, and currently the disputed domain name resolves to an inactive webpage. Therefore, there is no evidence that the Respondent has made demonstrable preparations to use the disputed domain name for legitimate purposes, nor is there any evidence that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods and services.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Moreover, the Complainant stresses that the Respondent is not commonly known by the name "harborside".

According to the Complainant, it has prior rights over the trademark HARBORSIDE, and has not authorized the registration and use of the disputed domain name, nor the use of its trade name and trademarks by the Respondent.

The Complainant also argues that the Respondent was aware of the Complainant's rights and has clearly registered the disputed domain name to target the Complainant's trademark, and that the registration of the disputed domain name was conducted in bad faith.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

As per paragraph 4(a) of the Policy, the Complainant must prove that:

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

Based on the evidence and arguments submitted, the Panel's findings are as follows:

A. Identical or Confusingly Similar

The evidence demonstrates that the Complainant is the owner of several trademark registrations and domain name with the element HARBORSIDE.

The disputed domain name incorporates the Complainant's trademark HARBORSIDE in its entirety, with the addition of the generic top-level domain ("gTLD") ".net". The addition of this gTLD does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark, since HARBORSIDE remains recognizable in the disputed domain name, and for the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the gTLD; see section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The addition of the word "shop" does not prevent a finding of confusing similarity under the first element.

As numerous prior UDRP panels have recognized, the incorporation of a trademark in its entirety or a dominant feature of a trademark is sufficient to establish that a domain name is identical or confusingly similar to the complainant's mark. See section 1.7 of the [WIPO Overview 3.0](#).

The Panel finds that paragraph 4(a)(i) of the Policy has been proved by the Complainant, *i.e.*, the disputed domain name is identical to the Complainant's trademark HARBORSIDE.

B. Rights or Legitimate Interests

The Respondent has not submitted a response to the Complaint.

There is no evidence that the Respondent has any authorization to use the Complainant's trademarks or to register domain names containing the Complainant's trademark HARBORSIDE.

There is no evidence that the Respondent is commonly known by the disputed domain name.

There is no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name or demonstrable preparations to use the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services.

Furthermore, the nature of the disputed domain name, comprising the Complainant's mark in its entirety together with the the gTLD ".net" and the term "shop", along with its previous use for a website reproducing the Complainant's logo and related products, cannot be considered fair use as it falsely suggests an affiliation with the Complainant that does not exist.

The Panel finds that the non-use of the disputed domain name, which incorporates the Complainant's trademark HARBORSIDE in its entirety does not correspond to a *bona fide* use of the disputed domain name under the Policy.

For the above reasons, the Panel finds that the Complainant has made out an unrebutted *prima facie* case and the condition of paragraph 4(a)(ii) of the Policy has been satisfied, *i.e.*, the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The trademark HARBORSIDE is registered by the Complainant in several jurisdictions and has been used for years. The Complainant's trademarks predate the registration of the disputed domain name.

The Complainant's trademark is distinctive and has strong online visibility. The disputed domain name reproduces the Complainant's trademark HARBORSIDE, and the Respondent has no rights or legitimate interests in the disputed domain name.

Moreover, the Respondent has chosen not to respond to the Complainant's allegations. According to the panel's decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company*, WIPO Case No. [D2009-0610](#), *supra* "the failure of the Respondent to respond to the Complaint further supports an inference of bad faith" (see also *Bayerische Motoren Werke AG v. (This Domain is For Sale) Joshuathan Investments, Inc.*, WIPO Case No. [D2002-0787](#)).

In addition, the disputed domain name has been used to resolve to a webpage which was identical to the Complainant's website operating its business at <shopharborside.com>, which is a clear evidence of the Respondent's bad faith.

Therefore, this Panel finds that the Respondent has intentionally attempted to cause confusion with the Complainant's trademark by misleading Internet users to believe that the disputed domain name belongs to or is associated with the Complainant in the sense of paragraph 4(b)(iv) of the Policy.

Finally, the current non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. See section 3.3 of the [WIPO Overview 3.0](#).

For the above reasons, the Panel finds that the condition of paragraph 4(a)(iii) of the Policy has been satisfied.

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, <shopharborside.net>, be transferred to the Complainant.

/Mario Soerensen Garcia/

Mario Soerensen Garcia

Sole Panelist

Date: September 15, 2023