

ADMINISTRATIVE PANEL DECISION

Estée Lauder Cosmetics Ltd. and Estée Lauder Inc. v. Nguyễn Thế Anh, Nguyễn Văn Vũ, Nguyễn Trọng Huy, Ngo Xuan Dinh, Nguyễn Quyết Thắng, Nguyen Thi Kim Phuong, Đoàn Thanh Tùng and Nguyen Ba Tung
Case No. D2023-3697

1. The Parties

The Complainants are Estée Lauder Cosmetics Ltd., Canada, and Estée Lauder Inc., United States of America (“United States”), represented by Fross Zelnick Lehrman & Zissu, P.C., United States.

The Respondents are Nguyễn Thế Anh, Viet Nam, Nguyễn Văn Vũ, Viet Nam, Nguyễn Trọng Huy, Viet Nam, Ngo Xuan Dinh, Viet Nam, Nguyễn Quyết Thắng, Viet Nam, Nguyen Thi Kim Phuong, Viet Nam, Đoàn Thanh Tùng, Viet Nam, and Nguyen Ba Tung, Viet Nam.¹

2. The Domain Names and Registrar

The disputed domain names <esteelauderchinhhang.store>, <esteelaudercompanies.store>, <esteelauderphp.store>, <esteelauderstore.online>, <esteelauderstore.xyz>, <esteelauderstorevn.online>, <esteelaudervietnam.asia>, <esteelaudervietnam.store>, <esteelaudervn.net>, <esteelaudervnn.store>, <esteethailand.store>, <estelauder.online>, <estelauder.store> are registered with Mat Bao Corporation (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 31, 2023. On September 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 6, 2023, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain names <esteelauderchinhhang.store>, <esteelaudercompanies.store>, <esteelauderphp.store>, <esteelauderstore.online>, <esteelauderstorevn.online>, <esteelauderstore.xyz>, <esteelaudervietnam.asia>, <esteelaudervietnam.store>, <esteelaudervn.net>, <esteelaudervnn.store>, <estelauder.online>, <estelauder.store> which differed from the named Respondent and contact information in the Complaint. On October 5, 2023, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain name <esteethailand.store>, confirming that Nguyen Thi Kim Phuong is the registrant and providing contact details.

¹All the Respondents will collectively be referred to as the “Respondent”, unless reference is made to any of them with their respective name.

The Center sent an email communication to the Complainants on October 5, 2023, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amended Complaint on October 12, 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 October 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 7, 2023. The Respondents Nguyễn Quyết Thắng, Nguyễn Văn Vũ and Nguyễn Trọng Huy sent email communications to the Center on October 20, 2023, October 21, 2023 and October 23, 2023. On November 13, 2023, the Center informed the Parties that it would proceed to panel appointment.

The Center appointed Reyes Campello Estebarez as the sole panelist in this matter on November 29, 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 Complainants are part of a group of companies, namely The Estée Lauder Companies Inc., which operates in the cosmetic industry since 1946 under its flagship brands ESTEE LAUDER and ESTEE. The Complainants’ group further use other trademarks to designate cosmetics, skin care, and fragrance products, including CLINIQUE, MAC, and ORIGINS. The Complainants’ products are available in over 135 countries and territories around the world, both in stores and online, at over 22,000 retail locations and in numerous merchant websites. In Viet Nam (the country where the registrants of the disputed domain names are located according to the Registrar’s verification), the Complainants have six retail locations and two online storefronts. Per the Complaint, during 2022, the Complainants’ group sales totaled more than USD 17.7 billion worldwide.

The Complainants own numerous trademark registrations for their brands ESTEE and ESTEE LAUDER covering more than 100 countries and jurisdictions, including:

- United States Trademark Registration No. 71,575,412, ESTEE LAUDER (figurative), registered on September 5, 1950, in class 51;
- United States Trademark Registration No. 3,049,827, ESTEE (word), registered on January 24, 2006, in class 3; and
- Viet Nam Trademark Registration No. 4-0008235-000, ESTEE LAUDER (figurative), registered on May 14, 1993, in class 3.

The aforementioned trademark registrations will collectively be referred to as the “ESTEE LAUDER mark” and the “ESTEE mark”, respectively.

Prior decisions under the Policy have recognized the international reputation and famous character of the ESTEE LAUDER mark.²

²See, e.g., *Estee Lauder Inc. v. Frank Nkafu*, WIPO Case No. [D2020-0647](#); and *Estée Lauder Inc., and Estée Lauder Cosmetics Ltd. v. Dang Xuan Hoa*, WIPO Case No. [D2023-3307](#).

The Complainants' online stores are conducted through a main website at "www.esteelauder.com", as well as through numerous country and language specific websites, including at "www.esteelauder.com.vn" for Viet Nam.³ To this effect, the Complainants and/or their group own various domain names corresponding to their trademarks, including <esteelauder.com> (registered on August 14, 1997), and <esteelauder.com.vn>.

The disputed domain names were registered within less than a year (between August 17, 2022 and June 3, 2023), as follows:

Disputed Domain Names	Date of registration
esteelauderchinhhang.store	December 7, 2022
esteelaudercompanies.store	December 26, 2022
esteelauderphp.store	February 2, 2023
esteelauderstore.xyz	February 2, 2023
esteelauderstore.online	June 3, 2023
esteelauderstorevn.online	June 3, 2023
esteelaudervietnam.asia	December 14, 2022
esteelaudervietnam.store	September 24, 2022
esteelaudervn.net	March 2, 2023
esteelaudervnn.store	November 17, 2022
esteethailand.store	August 17, 2022
estelauder.online	September 28, 2022
estelauder.store	September 25, 2022

All the disputed domain names, except the disputed domain name <esteelauderphp.store>, are apparently inactive resolving to Internet browser error messages.

The disputed domain name <esteelauderphp.store> resolves to a website, in English language, that purportedly commercializes ESTEE LAUDER products. This website includes the ESTEE LAUDER mark at its heading, as well as the image of a seal that indicates that it is the "guaranteed ESTEE LAUDER authentic" and "official site". This website contains various promotional material and photographs of ESTEE LAUDER cosmetics, their description and prices, as well as forms and links for their purchase. In order to buy any of the products, the user is requested to provide personal information. This website does not include information about its owner, and/or its relationship or lack of relationship with the Complainants and the ESTEE LAUDER mark. It contains phrases such as "Welcome to the world of Estee Lauder", as well as "Pictures of Estée Lauder's showroom", and complete information about the Complainants' group and the ESTEE LAUDER mark.

5. Parties' Contentions

A. Complainants

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

³Other Complainants' country and language specific websites mentioned in the Complaint are: "www.esteelauder.de", "www.esteelauder.ca", "www.esteelauder.co.uk", "www.esteelauder.co.th", "www.esteelauder.jp", "www.esteelauder.co.kr", "www.esteelauder.com.au", "www.esteelauder.com.hk", "www.esteelauder.com.tw", "www.esteelauder.com.vn", "www.esteelauder.at", "www.esteelauder.com.ph", "www.esteelauder.be", "www.esteelauder.ch", "www.esteelauder.co.il", "www.esteelauder.co.za", "www.esteelauder.com.tr", "www.esteelauder.cz", "www.esteelauder.dk", "www.esteelauder.es", "www.esteelauder.fr", "www.esteelauder.gr", "www.esteelauder.hu", "www.esteelauder.it", "esteelauder.nl", "www.esteelauder.no", "www.esteelauder.pl", "www.esteelauder.se", "www.esteelauder.com.cn", and "www.esteelauder.com.mx".

Notably, the Complainants contend that the ESTEE LAUDER and ESTEE marks are well known and famous worldwide, the disputed domain names are confusingly similar to these trademarks, and the Respondent has no rights or legitimate interests in the disputed domain names. There is no relationship between the Parties, the Respondent is not authorized to use the Complainants' trademarks, and is not commonly known by any of the disputed domain names. Nearly all of the disputed domain names are inactive, and the only active website, at the disputed domain name <esteelauderphp.store>, falsely claims to be an "official site". The Respondent registered and is using the disputed domain names in bad faith, and has configured email servers for them, which indicates an intention to potentially use the disputed domain names for purposes other than hosting a website, including potentially for constructing an email composition containing the disputed domain names, to be used for deceiving purposes.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

In separate email communications, under different registrants' names (Nguyễn Quỳết Thắng, Nguyễn Văn Vũ and Nguyễn Trọng Huy), the Respondent gave consent for the transfer or cancellation of some of the disputed domain names indicating that they were no longer needed.

6. Discussion and Findings

The Complainants have made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material and allegations, and performing some limited independent research under the general powers of the Panel articulated, *inter alia*, in paragraph 10 of the Rules.

A. Preliminary Issue: Consolidation of Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainants allege that the disputed domain names registrants are the same entity or mere alter egos of each other, or the disputed domain names are under common control. The Complainants request the consolidation of multiple Respondents pursuant to paragraph 10(e) of the Rules.

The disputed domain names registrants did not comment on the Complainants' request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainants' request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that (i) all the disputed domain names are registered with the same Registrar, they all use the same name servers, and they are all registered by registrants located in Viet Nam; (ii) all the disputed domain names were registered within a short period of time (less than a year), and some of them on the same dates; (iii) the names of the registrants are similar, as well as the composition of all the disputed domain names, all starting with the mark ESTEE, ESTEE LAUDER, or a typographical mistake of these marks; and (iv) the use of all the disputed domain names is also similar (almost all inactive).

As regards fairness and equity, the Panel sees no reason why consolidation of the Respondents would be unfair or inequitable to any Party.

Accordingly, the Panel decides to proceed on a consolidated basis regarding the nominally different disputed domain names registrants (referred to below as “the Respondent”) in a single proceeding.

B. 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 name. [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 that the ESTEE and ESTEE LAUDER marks are recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to these trademarks for the purposes of the Policy.

All the disputed domain names contain the ESTEE mark and/or the ESTEE LAUDER mark, or common typosquatting mistakes of these marks (omitting the final letter “e” of the term “estee”), and some disputed domain names add geographical terms or abbreviations (“thailand”, “vietnam”, “vn”, “vnn”, or “php”), the terms “store”, “companies”, or the term “chinhhang” (equivalent to the Vietnamese word “chính hãng” that means “genuine” or “authentic”). Although the addition of other terms may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the Complainants’ trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7, 1.8, and 1.9.

Therefore, based on the available record, the Panel finds the first element of the Policy has been established.

C. 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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available record, the Panel finds the Complainants have 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 such as those enumerated in the Policy or otherwise. Furthermore, the Respondent, under the names of three of the named registrants for the disputed domain names, has communicated its consent to the cancellation or transfer of some of the disputed domain names to the Complainants.

The Panel notes that the disputed domain names share no similarity with the names given by the Respondent for their registration, and the Respondent is not authorized to use the Complainants’ trademarks.

The Panel further notes that the disputed domain names are not used in connection to a *bona fide* offering of goods or services or to a legitimate purpose. The only active website linked to one of the disputed domain names (<esteelauderphp.store>) falsely suggests being the “official site” for the purchase of ESTEE LAUDER products, instead of informing about its lack of relationship with the Complainants and their trademarks. This website falsely generates a risk of confusion and affiliation that can never confer rights or legitimate interests under the Policy. Furthermore, the composition of all the disputed domain names carries a risk of implied affiliation.

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

D. 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 finds that all circumstances of this case point to bad faith of the Respondent.

The Panel notes that the ESTEE and ESTEE LAUDER marks are famous worldwide and internationally used, including in Viet Nam, where the Respondent is located according to the Registrar verification. The Complainants’ trademarks have a strong presence over the Internet where the Complainants’ group commercializes its products through a main website as well as through numerous country and language specific websites, including at “www.esteelauder.com.vn” for Viet Nam”.⁴

The Panel finds that the Respondent knew or should have known about the Complainants and their famous trademarks and targeted these marks in bad faith. Furthermore, the use of one of the disputed domain names (<esteelauderphp.store>) corroborates the Respondent’s bad faith. The false allegation at the Respondent’s website indicating that it is an “official site” for the purchase of ESTEE LAUDER products, and all content of this site enhances the risk of confusion or affiliation, which corroborates the Respondent’s bad faith.

The Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users by generating a likelihood of confusion with the Complainants and their trademarks.

Regarding all other disputed domain names, which are apparently inactive, panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. The Panel finds the non-use of most of the disputed domain names does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainants’ trademarks, and the composition of the disputed domain names, and finds that in the circumstances of this case the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy.

Therefore, based on the available record, the Panel finds that the Complainants have established the third element of the Policy.

⁴See footnote No. 3.

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 <esteelauderchinhhang.store>, <esteelaudercompanies.store>, <esteelauderphp.store>, <esteelauderstore.online>, <esteelauderstorevn.online>, <esteelauderstore.xyz>, <esteelaudervietnam.asia>, <esteelaudervietnam.store>, <esteelaudervn.net>, <esteelaudervnn.store>, <esteethailand.store>, <estelauder.online>, <estelauder.store> be transferred to the Complainant.

/Reyes Campello Estebarez/

Reyes Campello Estebarez

Sole Panelist

Date: December 13, 2023