

ADMINISTRATIVE PANEL DECISION

Hill House Home, Inc. v. Scarl Di
Case No. D2023-3809

1. The Parties

Complainant is Hill House Home, Inc., United States of America (“U.S.”), represented by Fixer Advisory Group, U.S.

Respondent is Scarl Di, U.S..

2. The Domain Name and Registrar

The Disputed Domain Name <hillhousehomeswimwear.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 September 12, 2023. On September 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On September 13, 2023, the Registrar transmitted by email to the Center its verification response confirming that 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 Respondent of the Complaint, and the proceedings commenced on September 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 5, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on October 6, 2023.

The Center appointed Richard W. Page as the sole panelist in this matter on October 18, 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

Complainant is the owner of several trademark registrations for the HILL HOUSE HOME Mark, including without limitation U.S. Registration No. 86677364 dated March 8, 2016 in classes 24, 25 (textile fabrics, bed linens, etc.).

Respondent uses the HILL HOUSE HOME Mark combined with the word “swimwear” and the generic Top Level Domain (“gTLD”) “.shop” to sell the exact goods and designs as Complainant. Respondent’s website copies model and product, images, products, collection names, and product descriptions.

Complainant filed a UDRP complaint against Respondent on May 24, 2023, for similar domain name <hillhousehomeoutlet.shop> that has since been disabled and transferred to Complainant pursuant to this process.

The Disputed Domain Name was registered March 10, 2023.

5. Parties’ Contentions

A. Complainant

Complainant contends that the Disputed Domain Name is confusingly similar to the HILL HOUSE HOME Mark, pursuant to paragraph 4(a)(i) of the Policy.

Complainant further contends that the Disputed Domain Name contains the entirety of its HILL HOUSE HOME Mark, with the addition of non-distinctive content.

Complainant alleges that Respondent has no rights or legitimate interests in the Disputed Domain Name, pursuant to paragraph 4(a)(ii) of the Policy.

Complainant further alleges that Respondent does not have authorization or consent, whether formally recorded or not, to use the HILL HOUSE HOME Mark. Complainant has owned and operated its authorized <hillhousehome.com> e-commerce site since registering with NameCheap, Inc. on October 25, 2013. There is no evidence or reason to believe that Respondent has any right in the Disputed Domain Name that would justify registering for and operating a domain that is nearly identical in name and using the products and images of Complainant’s legitimate website which was created 10 years ago.

Complainant further alleges that there is zero evidence demonstrating Respondent’s use of, or preparations to use, the Disputed Domain Name or any name corresponding to the Disputed Domain Name in connection with a *bona fide* offering of goods or services prior to registration to the Disputed Domain Name on March 10, 2023.

Complainant further alleges that Respondent is illegitimately acquiring personal information while tarnishing Complainant’s reputation for customer service and quality products. Although Complainant was unable to complete any transactions, this type of nefarious activity clearly demonstrates Respondent is not making legitimate non-commercial or fair use of the Disputed Domain Name.

Complainant further alleges that Respondent has acquired no trademark or service mark rights in the Disputed Domain Name. Further, there is no evidence or any reason to believe Respondent has ever been commonly known by the Disputed Domain Name. Complainant has owned the HILL HOUSE HOME Mark since 2016 and has never authorized Respondent to use such name.

Complainant asserts that Respondent has registered and is using the Disputed Domain Name in bad faith, pursuant to paragraph 4(a)(iii) of the Policy.

Complainant further asserts that Respondent is openly using the Disputed Domain Name in bad faith to mislead consumers and divert web traffic to its site by addition the word “swimware” and the gTLD “.shop” to the HILL HOUSE HOME Mark and to Complainant’s legitimate domain name.

Complainant further asserts that Respondent displays and sells not only the same products and collections, but Respondent has copied product descriptions and model images and even has a section devoted to the “Nap Dress” that Complainant is known for. Based on the totality of facts, it is clear that Respondent is acting in bad faith with the intent to create a likelihood of confusion with the HILL HOUSE HOME Mark and Complainant’s legitimate e-commerce website.

Complainant further asserts that it filed a UDRP complaint against Respondent on May 24, 2023 for the domain name <hillhousehomeoutlet.shop> that has since been disabled and transferred to Complainant pursuant to this process. It is clear that Respondent is registering multiple domain names in bad faith.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: “A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable.”

Even though Respondent has failed to file a Response or to contest Complainant’s assertions, the Panel will review the evidence proffered by Complainant to verify that the essential elements of the claims are met. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

Paragraph 4(a) of the Policy directs that Complainant must prove each of the following:

- i) that the Disputed Domain Name registered by Respondent is identical or confusingly similar to the HILL HOUSE HOME Mark in which Complainant has rights; and,
- ii) that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and,
- iii) that the Disputed Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Section 1.2.1 of the [WIPO Overview 3.0](#) states that registration of a trademark is *prima facie* evidence of Complainant having enforceable rights in the HILL HOUSE HOME Mark.

Complainant is the owner of several trademark registrations for the HILL HOUSE HOME Mark, including without limitation U.S. Registration No. 86677364 dated March 8, 2016, in classes 24, 25 (textile fabrics, bed linens, etc.).

The Panel finds that for purposes of this proceeding, Complainant has enforceable rights in the HILL HOUSE HOME Mark.

Section 1.7 of the [WIPO Overview 3.0](#) says that inclusion of the entire trademark in a domain name will be considered confusingly similar. Section 1.8 of the [WIPO Overview 3.0](#) instructs that the addition of other terms (whether descriptive, geographical, pejorative, meaningless or otherwise) does not prevent a finding of confusing similarity. Section 1.11.1 of the [WIPO Overview 3.0](#) instructs that gTLDs such as “.net” may be disregarded for purposes of assessing confusing similarity.

The Panel further finds that the Disputed Domain Name includes the entirety of the HILL HOUSE HOME Mark with the addition of the term “swimwear” and the gTLD “.shop”. Neither of these additions prevents a finding of confusing similarity.

Therefore, the Panel finds that Complainant has met the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Complainant alleges that Respondent has no rights or legitimate interest in the Disputed Domain Name pursuant to paragraph 4(a)(ii) of the Policy.

Section 2.1 of the [WIPO Overview 3.0](#) states that once Complainant makes a *prima facie* case in respect of the lack of rights or legitimate interests of Respondent, Respondent carries the burden of demonstrating he has rights or legitimate interests in the Disputed Domain Name. Where Respondent fails to do so, Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

Paragraph 4(c) of the Policy allows three nonexclusive methods for the Panel to conclude that Respondent has rights or a legitimate interest in the Disputed Domain Name:

(i) before any notice to you [Respondent] of the dispute, your use of, 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; or

(ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Disputed Domain Name, even if you have acquired no trademark or service mark rights; or

(iii) you [Respondent] are making a legitimate noncommercial or fair use of the Disputed Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the HILL HOUSE HOME Mark.

Complainant further alleges that Respondent does not have authorization or consent, whether formally recorded or not, to use the HILL HOUSE HOME Mark. Complainant has owned and operated its authorized <hillhousehome.com> e-commerce site since registering with NameCheap, Inc. on October 25, 2013. There is no evidence or reason to believe that Respondent has any right in the Disputed Domain Name that would justify registering for and operating a domain name that is nearly identical in name and using the products and images of Complainant’s legitimate website which was created 10 years ago.

Complainant further alleges that there is zero evidence demonstrating Respondent’s use of, or preparations to use, the Disputed Domain Name or any name corresponding to the Disputed Domain Name in connection with a *bona fide* offering of goods or services prior to registration to the Disputed Domain Name on March 10, 2023, or that Respondent is making a noncommercial or fair use of the Disputed Domain Name.

Complainant further alleges that Respondent has acquired no trademark or service mark rights in the Disputed Domain Name. Further, there is no evidence or any reason to believe Respondent has ever been commonly known by the Disputed Domain Name.

The Panel finds that Complainant has made a *prima facie* showing that Respondent lacks rights or legitimate interests in the Disputed Domain Name.

Respondent has not contested Complainant’s allegations.

Therefore, the Panel concludes that Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Complainant asserts that Respondent registered and is using the Disputed Domain Name in bad faith in violation of paragraph 4(a)(iii) of the Policy.

Paragraph 4(b) of the Policy sets forth four nonexclusive criteria for Complainant to show bad faith registration and use of the Disputed Domain Name:

(i) circumstances indicating that you [Respondent] have registered or you have acquired the Disputed Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Disputed Domain Name registration to Complainant who is the owner of the HILL HOUSE HOME Mark or to a competitor of Complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the Disputed Domain Name; or

(ii) you [Respondent] have registered the Disputed Domain Name in order to prevent Complainant from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you [Respondent] have registered the Disputed Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the Disputed Domain Name, you [Respondent] have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the HILL HOUSE HOME Mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product on your website or location.

Complainant further asserts that Respondent is openly using the Disputed Domain Name in bad faith to mislead consumers and divert web traffic to its site by addition the word “swimware” and the gTLD “.shop” to the HILL HOUSE HOME Mark and to Complainant’s legitimate domain name.

Complainant further asserts that Respondent displays and sells not only the same products and collections, but Respondent has copied product descriptions and model images and even has a section devoted to the “Nap Dress” that Complainant is known for. Based on the totality of facts, it is clear that Respondent is acting in bad faith with the intent to create a likelihood of confusion with the HILL HOUSE HOME Mark and Complainant’s legitimate e-commerce website.

Complainant further asserts that it filed a UDRP complaint against Respondent on May 24, 2023 for a similar domain name <hillhousehomeoutlet.shop> that has since been disabled and transferred to Complainant pursuant to this process. It is clear that Respondent is registering multiple domain names in bad faith.

The Panel finds that Complainant has met the requirements of paragraph 4(a)(iii) of the Policy.

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, <hillhousehomeswimwear.shop>, be transferred to Complainant.

/Richard W. Page/

Richard W. Page

Sole Panelist

Date: October 27, 2023