

ADMINISTRATIVE PANEL DECISION

Goop Inc. v. 雷绳富 (lei sheng fu)
Case No. D2023-4736

1. The Parties

The Complainant is Goop Inc., United States of America ("United States"), represented by Frost Brown Todd LLC, United States.

The Respondent is 雷绳富 (lei sheng fu), China.

2. The Domain Name and Registrar

The disputed domain name <goopgenbeauty.com> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on November 14, 2023. On November 15, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 16, 2023, the Registrar transmitted by email to the Center its verification response disclosing the name of the 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 November 16, 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 in English on December 18, 2023.

On November 16, 2023, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On November 21, 2023, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant's submission except automatic replies.

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 in Chinese and English of the Complaint, and the proceedings commenced on December 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 8, 2024. The Respondent did not submit any response, except automatic replies. Accordingly, the Center notified the Respondent's default on January 17, 2024.

The Center appointed Andrew Sim as the sole panelist in this matter on January 24, 2024. 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 global lifestyle company established in 2008 based in Santa Monica, California, United States. It provides a wide range of lifestyle products and services and related goods to customers internationally. The Complainant operates its business on e-commerce and mobile platforms, as well as in brick-and-mortar locations.

The Complainant is the owner of a number of GOOP-formative trademarks and service marks, including the following trademark registrations in the United States:

- (a) GOOP in Class 35, United States Patent and Trademark Office Registration No. 4946429, registered on April 26, 2016; and
- (b) GOOP in Classes 3, 5, 14, 21 and 24, United States Patent and Trademark Office Registration No. 5232763, registered on June 27, 2017.

The Complainant uses the above trademarks in connection with its podcast, television and multimedia, phone application, printed publication, and retail services in the field of fashion, as well as its line of home décor, jewelry products, and fashion accessories. The Complainant also maintains its e-commerce platform at "goop.com" and uses variants of the GOOP mark in connection with its products.

The disputed domain name was registered on June 28, 2023. At the time of the Complaint and this decision, the disputed domain name does not resolve to any content.

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 (i) the disputed domain name is confusingly similar to the GOOP mark as it entirely incorporates the GOOP mark; (ii) the Respondent has no rights or legitimate interests in the disputed domain name as the Respondent is neither a franchisee or otherwise affiliated with the Complainant, and there is no evidence that the Respondent's use of the disputed domain name relates to a bona fide offering of goods or services; and (iii) the disputed domain name was registered and is being used in bad faith as the Respondent clearly intended to capitalize on the goodwill associated with the GOOP mark, and the Respondent has set up MX-records for the disputed domain name such that it could send and receive emails from the disputed domain name, thereby using it for fraudulent email communications.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is English. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the disputed domain name, which comprises the Complainant's GOOP mark in full, as well as two other words: "gen", and "beauty" in English, and that requiring the Complainant, which is a company based in the United States, to submit documents in Chinese would lead to unwarranted delay, cause the Complainant to incur translation expenses, and cause unfairness.

The Center has duly notified the Respondent in both Chinese and English of the language of the proceeding and commencement of the proceeding. The Respondent did not make any specific submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2 Substantive Issues

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 3.0](#), section 1.7.

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 entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here may bear on assessment of the second and third elements, the Panel finds the addition of the term "genbeauty" here 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.

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 the 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 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 notes that the composition of the disputed domain name carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1. In particular, the Complainant markets collections of personal care and beauty products under the names “GOOPGENES” and “GOOP BEAUTY”. In this context, the addition of the term “genbeauty” in the disputed domain name could mislead Internet users into believing that the website bearing the disputed domain name is offered by the Complainant as a website dedicated to the GOOPGENES and GOOP BEAUTY branded products.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name 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 Complainant’s trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

In addition, as pointed out by the Complainant, the Respondent has set up MX-records for the disputed domain name. Panels have held that the use of a disputed domain name to set up the respondent to engage in behavior that would falsely imply an affiliation with the complainant constitutes a use in bad faith. See *bioMérieux v. Registration Private, Domains By Proxy, LLC / Milton Bardmess*, WIPO Case No. [D2020-3499](#). Given the Panel’s finding above that the disputed domain name carries a risk of implied affiliation with the Complainant, the setting up of MX-records which would enable the Respondent to send fraudulent or misleading emails is indicative of a use of the disputed domain name in bad faith.

The Panel finds that the Complainant has established the third element 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 <goopgenbeauty.com> be transferred to the Complainant.

/Andrew Sim/

Andrew Sim

Sole Panelist

Date: February 6, 2024