

ADMINISTRATIVE PANEL DECISION

Hill's Pet Nutrition, Inc. v. Li MandaM, MandaMLi, JonathanJPope,
EddieEGreen, and Chukwuma JuanEBruce
Case No. D2023-5143

1. The Parties

The Complainant is Hill's Pet Nutrition, Inc., United States of America ("United States"), represented by Fross Zelnick Lehrman & Zissu, PC, United States.

The Respondents are Li MandaM, MandaMLi, JonathanJPope, EddieEGreen, and Chukwuma JuanEBruce, United States.

2. The Domain Names and Registrars

The disputed domain name <hillsfrance.com> is registered with CNOBIN Information Technology Limited, the disputed domain names <hillsnl.com>, <officiel-hills.com>, and <ventehills.com> are registered with OwnRegistrar, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 8, 2023. On December 11, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On December 12, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Redacted for Privacy) and contact information in the Complaint.

The Center sent an email communication to the Complainant on December 12, 2023 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaints 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 December 13, 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 January 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 24, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Parties of the Respondent's default on January 25, 2024.

The Center appointed Ingrida Kariņa-Bērziņa as the sole panelist in this matter on February 12, 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 Delaware corporation that manufactures and markets therapeutic pet foods around the world under the HILL'S mark, which it has registered trademarks in numerous jurisdictions, including United States Trademark No. 955342 for HILL'S (word mark), registered on March 13, 1973 for goods in class 31, claiming a date of first use of February 13, 1937.

The Complainant operates its primary business website at the domain name <hillspet.com>. It also uses this domain name for its email communications.

The disputed domain names were registered as follows: <ventehills.com>, <officiel-hills.com>, and <hillsnl.com> on July 24, 2023; and <hillsfrance.com> on August 8, 2023. They resolve to nearly identical e-commerce websites featuring the HILL'S word and figural marks, purporting to offer HILL'S branded pet foods for sale.

The Complainant, having attempted to make test purchases through the websites without receiving any of the goods paid for, requested that the Internet service provider disable the Respondent's websites on November 8, 2023. At the time of this Decision, these websites were still visible.

No information is available about the Respondent.

5. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

1. Request to consolidate proceedings

The Complainant requests consolidation of the proceedings for the following reasons. The disputed domain names were registered in a short period of time. They resolve to virtually identical websites, each of which holds itself out as one of the Complainant's websites, displaying the Complainant's HILL'S mark and purporting to offer HILL'S branded products. The registrant names all contain the same typos, all list telephone numbers with area codes that do not correspond to the purported mailing addresses. The email addresses for the registrants are all operated by the same company and hosted on the same servers. The Complainant believes that the disputed domain names are under common ownership.

2. Substantive contentions

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

Notably, the Complainant contends that the first Hill's products were developed in the 1930's, and that today there are over 50 different pet foods marketed under the HILL'S mark, which has a reputation and renown. The Complainant was acquired by the Colgate-Palmolive Company in 1976. The disputed domain names incorporate the HILL'S mark, together with descriptive terms. The Respondent has no relationship with the Complainant and is not authorized to distribute the Complainant's products. The websites reflect the Complainant's marks, logo, and images copied from the Complainant's website, but lack a disclaimer stating the lack of relationship between the Parties. The Complainant attempted to purchase goods from the Respondent's websites but, while payment was made, no goods were delivered. The Respondent has provided false contact data.

The Complainant requests transfer of the disputed domain names.

B. Respondent

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

6. Discussion and Findings

6.1. Consolidation: Multiple Respondents

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

The disputed domain name registrants did not comment on the Complainant's 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 Complainant's 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 the disputed domain names were registered on two dates within a short span of time. They each reflect the Complainant's trademark together with descriptive terms. They resolve to similar websites that purport to offer HILL'S branded products for sale. The registrants use similar email addresses. The identified registrants have not offered any alternative explanation for these circumstances. Based on the available evidence, the Panel finds that the disputed domain names are under common control.

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

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

6.2. Substantive Issues

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 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 Complainant’s HILL’S mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are 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, “france”, “officiel”, “vente” and “nl”) 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 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 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 Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. 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 names such as those enumerated in the Policy or otherwise.

The disputed domain names incorporate the Complainant’s HILL’S mark, creating a risk of implied affiliation. There is no evidence of legitimate noncommercial use, or that the Respondent is engaged in any bona fide activity in connection with the disputed domain names. Further, panels have held that the use of a domain name for illegal activity (here, claimed impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark.]

The disputed domain names were registered approximately 50 years after the Complainant established rights in its HILL'S mark. They include either a geographic term ("france", "nl") or a term selected to reassure Internet users regarding the provenance of the websites ("vente", "officiel"). The websites to which the disputed domain names resolve display the Complainant's mark, logo and images of its products. There can be no doubt that the Respondent was targeting the Complainant's HILL'S mark when registering the disputed domain names.

Panels have held that the use of a domain name for illegal activity (here, claimed impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. The Complainant provides evidence that the Respondent may be purporting to offer the goods for sale as part of a fraudulent scheme. The record indicates that the Respondent has provided false contact information. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy.

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 names <hillsfrance.com>, <hillsnl.com>, <officiel-hills.com>, and <ventehills.com> be transferred to the Complainant.

/Ingrīda Kariņa-Bērziņa/
Ingrīda Kariņa-Bērziņa
Sole Panelist
Date: February 26, 2024