

ADMINISTRATIVE PANEL DECISION

Guccio Gucci S.p.A. v. chunmei zhang
Case No. D2024-0128

1. The Parties

The Complainant is Guccio Gucci S.p.A., Italy, represented by Studio Barbero S.p.A., Italy.

The Respondent is chunmei zhang, China.

2. The Domain Name and Registrar

The disputed domain name <gucciknirps.shop> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 12, 2024. On January 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 13, 2024, 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 (REDACTED FOR PRIVACY, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 16, 2024, 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 amendment to the Complaint on the same day.

The Center verified that the Complaint together with the amendment to 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 the Respondent of the Complaint, and the proceedings commenced on January 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 13, 2024.

The Center appointed Knud Wallberg as the sole panelist in this matter on February 19, 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 Guccio Gucci S.p.A., an Italian Public Limited Company which belongs to the international conglomerate company Kering (previously, Pinault-Printemps-Redoute, PPR), one of the leading groups worldwide in apparel and accessories.

The Complainant has a global portfolio of registrations that contains the term GUCCI, including the following:

- International Trademark registration No. 429833 for GUCCI in Classes 3, 14, 18 and 25, designating a number of jurisdictions, registered on March 30, 1977;
- International Trademark registration No. 457952 for GUCCI in Classes 1 to 42, designating a number of jurisdictions including China, registered on December 16, 1980;
- Chinese Trademark registration No. 177032 for GUCCI in Class 18, registered on May 15, 1983; and
- Chinese Trademark registration No. 1046977 for GUCCI in Class 25, registered on July 7, 1997.

The disputed domain name was registered on June 27, 2022.

The evidence provided by the Complainant indicates that at the time of filing of the Complaint, the disputed domain name resolved to an active page, that purported to offer inter alia Gucci sunglasses at discounted prices and Knirps umbrellas. At the time of this Decision, the disputed domain name continued to resolve to an active page with the same 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 the disputed domain name is confusingly similar to the GUCCI trademark in which the Complainant has rights, since it entirely reproduces the Complainant's registered and well-known trademark GUCCI in combination with the trademark KNIRPS, owned by Knirps International GmbH, which has consented to the transfer of the disputed domain name to the Complainant. The addition of a third-party trademark to the Complainant's trademark in the disputed domain name <gucciknirps.shop> is not sufficient to prevent a finding of confusingly similarity under paragraph 4(a)(i) of the Policy.

The Complainant further contends that the Respondent is not a licensee, authorized agent of the Complainant or in any other way authorized to use the Complainant's trademark GUCCI. The Complainant is thus not in possession of, nor aware of the existence of any evidence demonstrating that the Respondent might be commonly known by a name corresponding to the disputed domain name as an individual, business, or other organization.

The Complainant finally contends that the disputed domain name was registered and is being used in bad faith according to paragraph 4(a)(iii) of the Policy. The Respondent's use of the disputed domain name in connection with a web shop offering for sale purported GUCCI products along with third-party (KNIRPS) branded products, clearly indicates that the Respondent's purpose in registering the disputed domain name was to capitalize on the reputation of the Complainant's trademark, to intentionally attempt to attract Internet users seeking the Complainant's branded products to its own website for commercial gain, by creating a

likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of its website and the goods offered and promoted through the said website, according to paragraph 4(b)(iv) of the Policy.

B. Respondent

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

6. Discussion and Findings

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[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 GUCCI 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. The fact that the disputed domain name also reproduces another trademark belonging to a third party cannot change this finding. [WIPO Overview 3.0](#), section 1.12.

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 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.

In addition, the Panel notes that the disputed domain name has been and continues to be used for a web shop that offers or purports to offer what appear to be counterfeit GUCCI goods, which can never confer rights or legitimate interests on the 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.

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.

The disputed domain name resolved to an active page, that purported to offer inter alia Gucci sunglasses at discounted prices. Under these circumstances, it is reasonable to infer that the products offered on the website at the disputed domain name are counterfeit. Panels have held that the use of a domain name for illegal activity here, claimed sale of counterfeit goods constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the Complainant has established the third element of the Policy.

7. Remedy: Transfer of Domain Name containing a Third Party's Trademark

The Panel notes that the disputed domain name contains, in addition to the Complainant's trademark, a trademark owned by a third party. In this case the third party has consented to the (potential) transfer of the disputed domain name to the Complainant, in which case the Panel has no reservations to transfer of the disputed domain name to the Complainant. [WIPO Overview 3.0](#), section 1.12.

8. 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 <gucciknirps.shop> be transferred to the Complainant.

/Knud Wallberg/

Knud Wallberg

Sole Panelist

Date: March 13, 2024