

## **ADMINISTRATIVE PANEL DECISION**

Get Weird, LLC v. Disguised Toast  
Case No. D2024-0294

### **1. The Parties**

The Complainant is Get Weird, LLC, United States of America (“United States”), represented by ESCA Legal, United States.

The Respondent is Disguised Toast, United States.

### **2. The Domain Name and Registrar**

The disputed domain name <antisocialsocialclubs.shop> is registered with Hostinger Operations, UAB (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 23, 2024. On January 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 25, 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 (Domain Admin, Privacy Protect, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 29, 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 January 29, 2024.

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 February 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 21, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 23, 2024.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on February 27, 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 limited liability company established under the law of the State of California, United States in 2015 and headquartered in Los Angeles, California. The Complainant sells “streetwear” clothing (chiefly hoodies and T-shirts) branded ANTI SOCIAL SOCIAL CLUB through its website at <antisocialsocialclub.com>, its Instagram social media account (with 2.5 million followers), retail stores, and co-marketing campaigns with other retail, lifestyle, and sports brands including RIMOWA, COMME DES GARCONS, VANS, NIKE, PLAYBOY, SAMSUNG, HOTWHEELS, HELLO KITTY, NBA, EA SPORTS, UFC, HONDA, TOYOTA, and PERIOD CORRECT. The Complainant claims sales of 3 million units through 2023, with 35% of its customers outside the United States, spread across 187 countries.

The Complainant holds numerous trademark registrations for the ANTI SOCIAL SOCIAL CLUB word mark and design logo in the United States and other countries. These include United States Trademark Registration Numbers 6287453 in International Class 10 for face covers and sanitary masks (word mark registered March 9, 2021), 6335396 in International Class 25 for apparel (word mark registered April 27, 2021), and 6348457 in International Class 25 for apparel (design logo in stylized letters, registered May 11, 2021).

The Registrar reports that the disputed domain name was registered on July 20, 2023, in the name of a domain privacy service. After receiving notice of the Complaint in this proceeding, the Registrar identified the underlying registrant as the Respondent “Disguised Toast” with patently incorrect postal address information: the street address is given as “101 Los Angeles California”, a number with no street name followed by the names of a city and state in the United States, while the abbreviation for the state of New York is listed under “state or province”. Canadian contact telephone and fax numbers are listed, along with a Gmail email address. There was no response to the Center from any of these addresses.

The disputed domain name does not resolve to an active website at the time of this Decision. The record includes screenshots of the website to which the disputed domain name formerly resolved (“the Respondent’s former website”). These displayed the Complainant’s name, logos, and postal address, as well as photos and descriptions of the Complainant’s products evidently copied from the Complainant’s website, and other text emulating the Complainant’s website. The Respondent’s former website did not identify any person or company other than the Complainant and, therefore, gave the impression that it was operated by the Complainant. The Respondent’s former website included a shopping cart feature and ecommerce terms. However, according to the Complaint, the goods sold through the Respondent’s former website were counterfeit. The Respondent’s former website included a link to the Complainant’s actual Instagram page. The website also linked to a social media page on X (formerly known as Twitter) with a fake profile of the Complainant; this was not an account created or operated by the Complainant.

#### **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 its registered trademark. Paragraph 4(a) of the Policy provides that a complainant must demonstrate each of the following:

(i) (ii) (iii) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and the respondent has no rights or legitimate interests in respect of the domain name; and the domain name has been registered and is being used 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”. Merely adding an “s” to the word “club” and imitating the Complainant’s website and selling counterfeit goods, while hiding the identity of the website operator, cannot be considered a legitimate use in connection with a bona fide commercial offering. Rather, it reflects bad faith in the registration and use of the domain name, as the Respondent was clearly aware of the Complainant’s mark and sought to misdirect Internet users for commercial gain. The copying of material from the Complainant’s website, along with the display of the Complainant’s correct name and address and links to the Complainant’s Instagram page, demonstrate awareness of the Complainant’s mark and an intent to engender and exploit confusion as to source and affiliation.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy provides that a complainant must demonstrate each of the following:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) and the respondent has no rights or legitimate interests in respect of the domain name;
- (iii) and the domain name has been registered and is being used 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 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 ANTI SOCIAL SOCIAL CLUB is recognizable within the disputed domain name (omitting the spaces between words, which cannot be reproduced in URL addresses). 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 disputed domain name adds only a plural “s” to the word “club”, which does not avoid confusing similarity.

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.

Moreover, panels have held that the use of a domain name for illegal activity, such as the claimed sale of counterfeit goods, impersonation/passing off, or other types of fraud as indicated in this case, cannot confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Consequently, the Panel finds that 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 was undeniably aware of the Complainant’s mark, as the Respondent produced a website emulating the Complainant’s website and displaying the Complainant’s correct name and address, logo, and website content, linked to the Complainant’s popular Instagram page, and evidently created a fake X social media account that appeared to be the Complainant’s, all contributing to the likelihood of confusion with the Complainant.

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 circumstances here accord with the example of bad faith found in the Policy, Paragraph 4(b)(iv):

“by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.”

Moreover, Panels have held that the use of a domain name for illegal activity, such as the claimed sale of counterfeit goods, impersonation/passing off, or other types of fraud as indicated in this case, 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. Accordingly, 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 <antisocialsocialclubs.shop> be transferred to the Complainant.

*/W. Scott Blackmer/*

**W. Scott Blackmer**

Sole Panelist

Date: March 15, 2024