

ADMINISTRATIVE PANEL DECISION

American Woodmark Management Company v. Tamzin Pacheco
Case No. D2024-0333

1. The Parties

Complainant is American Woodmark Management Company, United States of America (“United States” or “U.S.”), represented by Gavin Law Offices, PLC, United States.

Respondent is Tamzin Pacheco, United States.

2. The Domain Name and Registrar

The disputed domain name <shenandoahcabinetry.site> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 25, 2024. On January 25, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 26, 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 / Privacy Service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complainant on January 29, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. 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 Respondent of the Complaint, and the proceedings commenced on February 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 22, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on February 27, 2024.

The Center appointed Scott R. Austin as the sole panelist in this matter on March 4, 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

Without contest by Respondent, Complainant asserts in its Complaint as amended, and its Annexes attached provide evidence sufficient to support that:

Since its incorporation in 1980 Complainant has manufactured and sold kitchen and bathroom cabinetry across the United States and currently markets approximately 500 lines of cabinetry sold under five major brand channels, including the trademark SHENANDOAH CABINETRY (the “SHENANDOAH Mark”). As one of the largest cabinetry manufacturers in the United States, Complainant sells its numerous cabinetry lines and styles through home improvement retailers, builders, and distributors, including big box retailers such as Lowe’s and The Home Depot and asserts its SHENANDOAH Mark is well known.

Complainant holds numerous trademark registrations for the SHENANDOAH Mark in the U.S. and foreign countries for its cabinetry products, including:

1. United States Registration No. 2417860, SHENANDOAH CABINETRY, registered on January 1, 2001, for products in International Class 20;
2. United States Registration No. 4777358, SHENANDOAH, registered on July 21, 2015, for products in International Class 20; and
3. United States Registration No. 4881761, SHENANDOAH VALUE SERIES, registered on January 5, 2016, for products in International Class 20.

Complainant has also registered numerous domain names that incorporate the SHENANDOAH Mark, including Complainant’s official domain name <shenandoahcabinetry.com> registered on August 12, 2002, used to access the official SHENANDOAH Mark website where it promotes its insurance and finance services in connection with the SHENANDOAH Mark, as well as owning <shenandoahcabinetry.net>, <shenandoahcabinetry.org>, <shenandoahvaluecabinetry.com>, and <shenandoahcabinets.net>.

The disputed domain name was registered on October 23, 2023, and resolved to a parking page hosting only sponsored pay per click (“PPC”) links to products in competition with Complainant’s cabinetry products.

5. Parties’ Contentions

A. Complainant

Complainant contends that the disputed domain name is identical or confusingly similar to Complainant’s trademark, that Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Paragraph 15 of the Rules provides that the Panel is to decide the Complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable.

The onus is on Complainant to make out its case and it is apparent from the terms of the Policy that Complainant must show that all three elements set out in paragraph 4(a) of the Policy have been established before any order can be made to transfer a domain name. As the proceedings are administrative, the standard of proof under the Policy is often expressed as the “balance of the probabilities” or “preponderance of the evidence” standard. Under this standard, an asserting party needs to establish that it is more likely than not that the claimed fact is true. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.2.

Thus, for Complainant to succeed it must prove within the meaning of paragraph 4(a) of the Policy and on the balance of probabilities that:

1. The disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
2. Respondent has no rights or legitimate interests in respect of the disputed domain name; and
3. The disputed domain name has been registered and is being used in bad faith.

The Panel finds that Complainant has met its burden in all three elements of the Policy and will deal with each of these elements in more detail below.

A. Identical or Confusingly Similar

Ownership of a nationally registered trademark constitutes prima facie evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Complainant claims trademark rights in the SHENANDOAH Mark for its cabinetry products dating back to 1980. Sufficient evidence has been submitted in the form of electronic copies of valid and subsisting international trademark registration documents in the name of Complainant and therefore, Complainant has demonstrated it has rights in the SHENANDOAH Mark. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#).

With Complainant’s rights in the SHENANDOAH Mark established, the remaining question under the first element of the Policy is whether the disputed domain name is identical or confusingly similar to Complainant’s SHENANDOAH Mark. It is well accepted that the first element functions primarily as a standing requirement and that the 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.

Prior UDRP panels have held the fact that a domain name wholly incorporates a complainant’s registered mark is sufficient to establish identity or confusing similarity for purposes of the Policy despite the addition of other words to such marks. [WIPO Overview 3.0](#), section 1.8.

The disputed domain name is identical to Complainant’s SHENANDOAH Mark incorporating both Complainant’s SHENANDOAH CABINETRY Mark and SHENANDOAH Mark each in its entirety and adding only the generic Top-Level Domain (“gTLD”) “.site”.

The addition of the gTLD “.site” is irrelevant in determining whether the disputed domain name is confusingly similar. See *Research in Motion Limited v Thamer Ahmed Alfarshooti*, WIPO Case No. [D2012-1146](#); [WIPO Overview 3.0](#), section 1.11.

Based on the above, this Panel finds that Complainant's well-known SHENANDOAH Mark remains fully recognizable as incorporated in its entirety into the disputed domain name. Accordingly, the Panel finds the disputed domain name confusingly similar to the SHENANDOAH Mark in which Complainant has rights and Complainant has thus satisfied its burden under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under the second element of the Policy, a complainant has to make out a prima facie case that the respondent does not have rights to or legitimate interests in the disputed domain name, and if successful the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights to or legitimate interests in the disputed domain name. If the respondent fails to come forward with such evidence, a complainant is deemed to have satisfied the second element.

[WIPO Overview 3.0](#), section 2.1. See also *The American Automobile Association, Inc. v. aaaaautoinsurance.com Privacy--Protect.org*, *aaa-netaccess.com Privacy--Protect.org*, *aaanetaccess.com Privacy--Protect.org*, *Isaac Goldstein*, WIPO Case No. [D2011-2069](#).

Paragraph 4(a)(ii) of the Policy also directs an examination of the facts to determine whether a respondent has rights or legitimate interests in a domain name. Paragraph 4(c) lists a number of ways in which a respondent may demonstrate that it does have such rights or legitimate interests.

The first example, under paragraph 4(c)(i), is where "before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services".

Here, the annexes to the Complaint show that the disputed domain name resolved to a parking page hosting only sponsored links labelled as follows: "Cabinetry", "Rta Cabinets", and "File Storage Solutions", which links Complainant contends may drive users looking for Shenandoah Cabinetry to other competing cabinetry products.

Prior UDRP panels in similar circumstances have held that the use of disputed domain names to confuse and attract Internet users through misuse of a well-known trademark, which resolves to a parking website containing sponsored links related to Complainant's same business activity – cannot be considered either a bona fide offering of goods or services under paragraph 4(c)(i) or a legitimate noncommercial or fair use of the disputed domain name as Respondent is unduly profiting from Complainant's goodwill by misleading Internet users to its website. See *Zions Bancorporation v. Domain Administrator, Fundacion Private Whois*, WIPO Case No. [D2014-0465](#); see also *Dr. Martens International Trading GmbH, Dr. Maertens Marketing GmbH v. Private Whois Service*, WIPO Case No. [D2011-1753](#).

Applying the foregoing decision to these facts this Panel finds the disputed domain name is not being used in connection with a bona fide offering of goods or services sufficient to demonstrate Respondent has any rights or legitimate interests in the disputed domain name under the factors specified by paragraph 4(c)(i) of the Policy.

The second example, under paragraph 4(c)(ii), is a scenario in which a respondent is commonly known by the domain name. Complainant states that Respondent is not related in any way with Complainant, does not carry out any activity for, nor have any business with Respondent. Neither has Complainant granted any license or authorization to Respondent to make any use of Complainant's SHENANDOAH Mark or apply for registration of the disputed domain name. Complainant has never authorized Respondent to use the SHENANDOAH Mark, or any marks confusingly similar thereto for any purpose, including as a domain name. Prior UDRP panels have found a lack of rights or legitimate interests under the second element of the Policy based on such circumstances. See, e.g., *Charles Schwab & Co., Inc. v. Josh Decker d/b/a I GOT YOUR TIX*, WIPO Case No. [D2005-0179](#); *Guerlain S.A. v. HI Investments*, WIPO Case No. [D2000-0494](#).

Complainant also shows that Respondent is not commonly known by the disputed domain name because the Registrar identified the underlying registrant in its verification process, Tamzin Pacheco, of the United States, who has been substituted in the amended Complaint as Respondent. Respondent's name bears no resemblance to the disputed domain name whatsoever. Thus, there is no evidence in this case to suggest that Respondent is commonly known by the disputed domain name, that it is licensed or otherwise authorized to use Complainant's trademark, or that it has acquired any trademark rights relevant thereto. As such, the Panel finds this sub-section of the Policy is of no help to Respondent and the facts presented here support a lack of rights or legitimate interests in the disputed domain name. See *Expedia, Inc. v. Dot Liban, Hanna El Hinn*, WIPO Case No. [D2002-0433](#).

Finally, Complainant contends that Respondent cannot avail itself of the defense provided under paragraph 4(c)(iii) of the Policy that Respondent is making a legitimate noncommercial or fair use of the disputed domain name because Respondent is clearly seeking commercial gain for nefarious purposes by establishing a parked page with links to competing cabinetry products. Respondent, therefore, has used the disputed domain name for commercial purposes and paragraph 4(c)(iii) is not applicable. See *Chanel, Inc. v. Estco Technology Group*, WIPO Case No. [D2000-0413](#).

In light of the above, and with no Response or other submission in this case to rebut Complainant's assertions and evidence, the Panel finds that the facts of this case demonstrate that Respondent has no rights or legitimate interests in the disputed domain name. Complainant has successfully met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Finally, Complainant must prove, by a preponderance of the evidence, that the disputed domain name has been registered and used in bad faith under paragraph 4(a)(iii) of the Policy. See, e.g., *Hallmark Licensing, LLC v. EWebMall, Inc.*, WIPO Case No. [D2015-2202](#).

Paragraph 4(b) of the Policy sets out a non-exhaustive list of circumstances that point to bad faith conduct on the part of a respondent. The panel may, however, consider the totality of the circumstances when analyzing bad faith under Policy, paragraph 4(a)(iii) and may make a finding of bad faith that is not limited to the enumerated factors in Policy, paragraph 4(b). See *Do the Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#).

First Complainant contends that given its SHENANDOAH Mark is well-known, and the disputed domain name incorporates the SHENANDOAH Mark in its entirety, shows both Respondent's actual knowledge of the SHENANDOAH Mark and the mark's recognition in the U.S. where Respondent is supposedly located, and the mark has been in use for approximately 43 years before Respondent registered the disputed domain name. Prior UDRP panels have found that where, as here, it would be implausible to believe that Respondent selected and was using the disputed domain name encompassing the SHENANDOAH Mark for any other purpose than to trade on Complainant's trademark rights and reputation in its widely recognized trademark, establishes a fact pattern that repeatedly has been held to constitute bad faith registration and use. See *Accenture Global Services Limited v. WhoisGuard Protected, WhoisGuard, Inc. / Joshua Kimac*, WIPO Case No. [D2018-1641](#); see also *Philip Morris Inc. v. Alex Tsytkin*, WIPO Case No. [D2002-0946](#).

Prior UDRP panels have also held that a respondent's selection of a disputed domain name that comprises a complainant's mark in its entirety demonstrates a respondent's actual knowledge to support a finding of bad faith in registering and using the domain. See, e.g., *Lloyds Bank Plc v. Marc Wiese*, WIPO Case No. [D2015-0914](#); see also, *Heineken Brouwerijen B.V. v. Mark Lott*, WIPO Case No. [D2000-1487](#). Moreover, UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a well-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

Finally, as noted in Section 6.C. above, the disputed domain name, which Respondent has intentionally configured to enhance confusing similarity to Complainant's SHENANDOAH Mark by using a combination of terms that make the disputed domain name identical both the SHENANDOAH Mark and SHENANDOAH CABINETRY Marks and using the disputed domain name to direct or redirect consumers to Respondent's parking page website providing cabinetry products in competition with Complainant's products. Prior UDRP Panels have found these facts demonstrate a clear indication that Respondent intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with Complainant's SHENANDOAH Mark as to the source, sponsorship, affiliation or endorsement of Respondent's website, and, therefore, evidence of registration and use of the disputed domain name in bad faith under paragraph 4(b)(iv) of the Policy. See, e.g., *Zions Bancorporation v. Domain Administrator, Fundacion Private Whois, supra*; *Microsoft Corporation v. Gioacchino Zerbo*, WIPO Case No. [D2005-0644](#).

The Panel finds Complainant's arguments and evidence persuasive and has received no arguments or evidence from Respondent to the contrary. Considering all the circumstances, the Panel concludes that Respondent has registered and used the disputed domain name in bad faith and Complainant has satisfied 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 <shenandoahcabinetry.site> be transferred to Complainant.

/Scott R. Austin/

Scott R. Austin

Sole Panelist

Date: March 15, 2024