

ADMINISTRATIVE PANEL DECISION

Muitas Ltd v. Andrey Leonov
Case No. D2024-0409

1. The Parties

Complainant is Muitas Ltd, United States of America (“United States or “U.S.””), represented by Silverstein Legal, United States.

Respondent is Andrey Leonov, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <clips-4-sale.com> 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 29, 2024. On January 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 31, 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) and contact information in the Complaint. The Center sent an email communication to Complainant on January 31, 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 the same date.

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

The Center appointed Gabriel F. Leonardos 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

Complainant is Muitas Ltd, (“Muitas”) a company with a platform that allows users to post and sell adult themed audiovisual content through clip stores on the Internet.

Complainant owns a domain name including the marks CLIPS4SALE and CLIPS4 (<clips4sale.com>) in which Complainant promotes and offers its products.

Some examples of Complainant’s trademark registrations, by way of assignment, can be found below:

Registration No.	Trademark	Jurisdictions	International Class	Registration Date
3508680	CLIPS4SALE.COM	United States	41	September 30, 2008
3554200	CLIPS4SALE	United States	41	December 30, 2008
4800900	CLIPS4	United States	9	August 25, 2015
4814248	CLIP4	United States	9	September 15, 2015

The disputed domain name was registered on June 30, 2023. According to the evidence, it has been used to resolve to a website displaying the CLIPS4SALE mark and offering adult entertainment content in competition with Complainant’s services.

5. Parties’ Contentions

A. Complainant

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

Notably, Complainant contends that the disputed domain name is confusingly similar to the registered trademarks CLIPS4SALE.COM and CLIPS4SALE, since the addition of a dash does not negate the confusing similarity between the disputed domain name and the trademarks. Furthermore, Complainant states that the use of the generic Top-Level Domain (“gTLD”) “.com” does not prevent the confusing similarity.

Therefore, according to Complainant, the disputed domain name is confusingly similar with Complainant’s trademarks CLIPS4SALE.COM and CLIPS4SALE, fulfilling paragraph 4(a)(i) of the Policy.

Moreover, Complainant states that Respondent is using the disputed domain name to redirect customers from Complainant to Respondent’s website which offers adult entertainment content in direct competition with Complainant’s services. Accordingly, Complainant states that no legitimate use of the disputed domain name could be reasonably claimed by Respondent, thus paragraph 4(a)(ii) of the Policy has been fulfilled.

Finally, Complainant states that Respondent intentionally attempts to attract for commercial gain, Internet users to Respondent's website by creating a likelihood of confusion with Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of a product or service on Respondent's website or location. Thus, according to Complainant, the requirements of bad faith registration and use of the disputed domain name have been fulfilled, pursuant to paragraph 4(b)(iv) of the Policy.

Accordingly, Complainant requests transfer of the disputed domain name to Complainant.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

To succeed in a UDRP complaint, Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The burden of proving these elements is upon Complainant.

Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the complaint, in the absence of exceptional circumstances, the panel's decision shall be based upon the complaint.

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 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.

Based on the available record, the Panel finds 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 trademarks is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the addition of the punctuation ("-") does not prevent a finding of confusing similarity between the disputed domain name and the trademarks for the purposes of the Policy. Previous panels have decided in this sense, see *Vertex Pharmaceuticals Incorporated v. Ahalya Hayre* Case No. [D2019-1879](#) and *Confédération Nationale du Crédit Mutuel v. Domain Administrator, Fast Serv Inc. d.b.a. QHoster.com / Konate Asita* Case No. [D2018-2748](#). [WIPO Overview 3.0](#), section 1.8.

The disputed domain name consists also of the generic Top-Level Domain ("gTLD") ".com". The applicable gTLD in a domain name, such as ".com" in this case, is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, 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 Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on 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 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 respondent fails to come forward with such relevant evidence, complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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 Complainant argues that Respondent is using the disputed domain name to redirect Internet users to a website displaying adult content in competition with Complainant’s services. The Panel finds that Complainant sufficiently proves that Respondent’s intent on diverting Internet users to the website fraudulently using Complainant’s trademark CLIPS4SALE as supported by the evidence on the Complaint. Moreover, the composition of the disputed domain name by itself carries a risk of implied affiliation to Complainant as it merely includes dashes to Complainant’s trademark CLIPS4SALE, exacerbated by the attempt of correlation of websites mentioned above, and as such, cannot constitute fair use.

Panels have held that the use of a domain name for illegal activity (e.g., 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.

Based on the available record, 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 Respondent has registered the disputed domain name that is confusingly similar to Complainant’s trademark CLIPS4SALE - as explained above in Section 6.A - and merely adds dashes (“-”).

The Panel finds that it was duly demonstrated that Respondent was aware of Complainant’s rights to the trademarks CLIPS4SALE and CLIPS4SALE.COM at the time of the registration - as the evidence to the Complaint contains proof that the disputed domain name resolved to a website exposing content similar to Complainant’s website and including the trademark CLIPS4SALE aiming to divert Internet users. Moreover, the use of the disputed domain name as a similar version of Complainant’s website exposes the likelihood of Respondent’s knowledge of Complainant’s trademark and a clear intent to take a free ride on Complainant’s renown.

The Panel concludes the registration and use is in bad faith under paragraph 4(b) of the Policy as the use of the disputed domain name falls under paragraph 4(b)(iv) of the Policy as Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with Complainant's mark.

Panels have held that the use of a domain name for illegal activity (e.g., impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the disputed domain name to impersonate Complainant aiming to potentially obtain financial gain constitutes bad faith under the Policy. Panels have decided in similar cases to this in the same sense *Muitas Ltd. v. Michal Kalasek, Poste restante*, WIPO Case No. [D2022-2963](#).

The Panel finds that the circumstances of the present case allows a finding of bad faith in the registration and use of the disputed domain name, considering that (i) Respondent would likely obtain commercial gain by using a confusingly similar disputed domain name to Complainant's trademark; (ii) before the registration of the disputed domain name, Complainant had registered the trademarks CLIPS4SALE.COM and CLIPS4SALE, and was already operating an almost identical domain name, such that Respondent most likely knew (or should have known) of its existence, taking advantage of the Internet user confusion caused by its use in the disputed domain name; and (iii) the use of the disputed domain name in order to divert Internet users of Complainant's website, and possibly obtaining financial gain.

Moreover, the Panel finds it relevant that Respondent has not provided any evidence of good faith registration or use, or otherwise participated in this dispute. Complainant has put forward serious claims regarding the apparent bad faith use of the disputed domain name that the Panel would expect any legitimate party would seek to refute.

Based on the available record, the Panel finds that 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 <clips-4-sale.com> be transferred to Complainant.

/Gabriel F. Leonardos/

Gabriel F. Leonardos

Sole Panelist

Date: March 12, 2024