

ADMINISTRATIVE PANEL DECISION

Clarins v. DOMAIN ADMINISTRATOR, Buy this domain on Dan.com ----
Case No. D2024-0464

1. The Parties

The Complainant is Clarins, France, represented by Tmark Conseils, France.

The Respondent is DOMAIN ADMINISTRATOR, Buy this domain on Dan.com ----, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <clarinbeautyessentials.com> (the “Domain Name”) 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 31, 2024. On February 1, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 1, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (IDENTITY UNDISCLOSED) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 5, 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 amended Complaint on February 15, 2024.

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 February 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 8, 2024.

The Center appointed Jonas Gulliksson as the sole panelist in this matter on March 18, 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 acts within the field of cosmetics and make-up products and has been doing business in France for more than 60 years. The Complainant is the proprietor of, i.a., the following trademark registrations:

- French trademark registration no. 1637194, CLARINS (word), registered on June 14, 1991;
- European Union trademark registration no. 005394283, CLARINS (word), registered on October 5, 2010;
- European Union trademark registration no. 018093855, CLARINS CALM ESSENTIEL (word), registered on October 24, 2019;
- European Union trademark registration no. 015717564, CLARINS HYDRA-ESSENTIEL (figurative), registered on February 1, 2017;
- United Kingdom trademark registration no. UK00905394283, CLARINS (figurative), registered on October 5, 2010;
- United Kingdom trademark registration no. UK00918093855, CLARINS CALM ESSENTIEL (word), registered on October 24, 2019;
- United Kingdom trademark registration no. UK00915717564, CLARINS HYDRA-ESSENTIEL (figurative), registered on February 1, 2017;
- United States of America trademark registration no. 73746658, CLARINS (word), registered on January 2, 1990;
- United States of America trademark registration no. 6182194, CLARINS CALM ESSENTIEL (word), registered on October 27, 2020; and
- United States of America trademark registration no. 5393507, CLARINS HYDRA-ESSENTIEL (figurative), registered on February 6, 2018.

Further, "Clarins" constitutes the registered company name of the Complainant. The Complainant also owns the domain names <clarins.com>, registered on March 15, 1997, and <clarinsusa.com>, registered on November 11, 1997.

The Domain Name was registered on December 14, 2023, and redirects to a website where it is offered for sale.

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 Domain Name.

Notably, the Complainant contends that:

- The Domain Name is identical or confusingly similar to trademarks in which the Complainant has rights.
- The Respondent has no rights or legitimate interests in respect of the Domain Name. The Complainant's prior rights predates, by far, the date of the Domain Name. CLARINS is not a generic term but a registered distinctive trademark owned by the Complainant. At the time of registration of the Domain

Name, the Respondent was not known as “Clarins”. To the Complainant’s knowledge, the Respondent has no genuine activity under this name. This is notably corroborated by the fact that the Domain Name is not redirecting toward any active website but to a website which promotes the sale of the Domain Name. The proposed price for the Domain Name is USD 2,850 which is very expensive. Further, The Complainant has never licensed or otherwise authorized in any way the Respondent to use CLARINS as a domain name or as an element of a domain name or for any other purpose.

- The Domain Name was registered and is being used in bad faith. The Domain Name was created very recently, on December 14, 2023. The Complainant was already extensively using its CLARINS trademark worldwide well before that date. The Complainant CLARINS trademark has a well-known character worldwide, and has a long-standing worldwide operating website under the domain name <clarins.com>. The Respondent has obviously registered the Domain Name for the sole purpose of selling, renting or transferring it at a very expensive price whereas it reproduces almost identically the Complainant’s prior well-known trademarks.

B. Respondent

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

6. Discussion and Findings

The burden for the Complainant under paragraph 4(a) of the Policy is to prove:

(i) that the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

(ii) that the Respondent has no rights or legitimate interests in respect of the Domain Name; and

(iii) that the Domain Name has been registered and is being used in bad faith.

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 mark and the 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 trademarks consisting of or including the word CLARINS for the purposes of the Policy, see [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the Complainant’s CLARINS marks are recognizable within the Domain Name. Although the addition of other terms 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 Domain Name and the Complainant’s marks for the purposes of the Policy, see [WIPO Overview 3.0](#), section 1.8. Accordingly, the Domain Name is confusingly similar to the Complainant’s CLARINS marks for the purposes of the Policy, see [WIPO Overview 3.0](#), section 1.7.

The Panel finds that 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 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 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 Domain Name such as those enumerated in the Policy or otherwise.

The Panel finds that the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the Domain Name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent’s concealing its identity, see [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the reputation of the Complainant’s CLARINS marks, the composition of the Domain Name, the inclusion of terms in the Domain Name that allude to the industry in which the Complainant’s is active with its CLARINS marks and the fact that the Respondent has failed to submit response to the Complaint. Further, the Panel notes that the Respondent has tried to conceal its identity and also that he/she has promoted the sale of the Domain Name for a price which most likely is in excess of the Respondent’s documented out-of-pocket costs directly related to the Domain Name.

Considering what is stated above, 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 Domain Name <clarinbeautyessentials.com> be transferred to the Complainant.

/Jonas Gulliksson/
Jonas Gulliksson
Sole Panelist
Date: April 1, 2024