

ADMINISTRATIVE PANEL DECISION

EE Holding Group LLC v. Amna Shahid
Case No. D2024-0470

1. The Parties

The Complainant is EE Holding Group LLC, United States of America (“United States”), represented by The Sladkus Law Group, United States.

The Respondent is Amna Shahid, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <ericmanuelclothing.store> 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 31, 2024. On February 1, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same date, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 2, 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 February 2, 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 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 26, 2024.

The Center appointed Gonalo M. C. Da Cunha Ferreira as the sole panelist in this matter on February 29, 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 EE Holding Group LLC, a United States company organized under the laws of Delaware.

The Complainant owns the intellectual property of the fashion designer Eric Emmanuel, an independent sportswear designer, including all trademark rights, among which the following trademark registrations:

- United States Trademark Registration No. 6,721,224 for ERIC EMANUEL, registered on May 24, 2022;
- International Trademark Registration No. 1762468 for ERIC EMANUEL, registered on October 11, 2023.

The Complainant operates on the Internet, its official website being "www.ericmanuel.com".

The Complainant provided evidence in support of the above.

According to the Whois records, the disputed domain name was registered on April 13, 2023. It resolved to a website in which the Complainant's trademarks and logo are reproduced and goods bearing the Complainant's trademark were purportedly 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 disputed domain name.

Notably, the Complainant states that:

1. the disputed domain name is identical to its trademark ERIC EMANUEL since it incorporates the Complainant's registered ERIC EMANUEL trademark in its entirety.
2. the Respondent has no rights or legitimate interests in respect of the disputed domain name since it has not been authorized by the Complainant to register the disputed domain name or to use its trademark within the disputed domain name.
3. the Respondent is not commonly known by the disputed domain name and is not making either a bona fide offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name.
4. the disputed domain name resolves to a fraudulent website designed to mimic the Complainant's official website and deceive consumers into believing that it is the Complainant's official website or an otherwise authorized retail channel.
5. the Respondent is knowingly and intentionally misappropriating the Complainant's exclusive trademark rights with the intent to deceive consumers and profit from its malfeasance.
6. the Respondent has registered the disputed domain name in bad faith since the Complainant's trademark ERIC EMANUEL is distinctive and well known in the field of fashion.
7. the Respondent is commercially benefitting from the disputed domain name by diverting consumers from the Complainant's authentic website and goods.
8. the Respondent is using the disputed domain name to host a website selling a wide array of counterfeit ERIC EMANUEL brand clothing.
9. the Respondent registered and maintains the disputed domain name in bad faith.

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 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.

Although the addition of other terms here, "clothing" and the generic Top-Level Domain ("gTLD") ".store", 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 disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

The Panel notes that the disputed domain name is compromised by the Complainant's mark in its entirety, added by the term "clothing", descriptive of the Complainant's products, and the gTLD ".store", and also notes that the website at the disputed domain name creates an impression of being one of the Complainant (or affiliated to the Complainant). The composition thus, supports a finding that the Respondent obtained the domain name to take advantage of the Complainant's trademark and as such that the Respondent lacks rights or legitimate interests in the domain name. [WIPO Overview 3.0](#), section 2.5.1. and 2.14.1.

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.

In the present case, the Panel notes the composition of the disputed domain name, and that the Respondent has used such to impersonate the Complainant. Therefore, the Panel finds that the Respondent targeted the Complainant when registering the disputed domain name and has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark. This amounts to bad faith registration and use of the disputed domain name pursuant to paragraph 4(b)(iv) of the Policy.

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 <ericmanuelclothing.store> be transferred to the Complainant.

/Gonçalo M. C. Da Cunha Ferreira/

Gonçalo M. C. Da Cunha Ferreira

Sole Panelist

Date: March 14, 2024