

ADMINISTRATIVE PANEL DECISION

Maison Pierre Hardy, (SAS) v. Mays Lawrence
Case No. D2024-0921

1. The Parties

Complainant is Maison Pierre Hardy, (SAS), France, represented by Cabinet Beau de Loménie, France.

Respondent is Mays Lawrence, United States of America.

2. The Domain Name and Registrar

The disputed domain name <hadyshoe.com> is registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 1, 2024. On March 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 6, 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 (the Registrar’s name listed in the Complaint) and contact information in the Complaint. The Center sent an email communication to Complainant on March 8, 2024, providing the registrant and contact information disclosed by the Registrar, and requesting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on the same date. In response to the Center’s notification regarding the file size, Complainant resubmitted some annexes to the Complaint on March 12, 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 Respondent of the Complaint, and the proceedings commenced on March 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 8, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on April 10, 2024.

The Center appointed Marina Perraki as the sole panelist in this matter on April 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

Complainant is active in fashion and especially accessories such as shoes and handbags since 2000s, sold in a network of distributors and stores located in 14 countries, including 99 stores in 45 cities, such as Paris, New York, Tokyo, Milan, Berlin, London, Moscow, Hong Kong, China, etc. In 2006 Complainant was honored with the award of the designer of the year by Footwear News International magazine, as well as the prize of the shoes designer of the year, awarded by Wallpaper magazine. In 2012, Complainant won the Excellence Award of the Marie Claire fashion for the best “line of shoes”, while it often appears in the press.

Complainant owns trademark registrations for PIERRE HARDY including the international trademark registration No. 992959, PIERRE HARDY (word), registered on March 7, 2008 for goods in international classes 14, 18 and 25.

The disputed domain name was registered on October 6, 2023 and leads to a website (the “Website”) prominently displaying Complainant’s trademark throughout and purportedly offering for sale Complainant’s goods at heavily discounted prices. Per Complainant, these goods are counterfeits. Complainant tried to order a product on the Website, paid for it and never received it.

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.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the disputed domain name:

(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.

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.

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 Panel finds the dominant feature of the mark “hardy” is recognizable within the disputed domain name although there is an omission of the letter “r”. Further, the Panel notes that the Website prominently displays Complainant’s PIERRE HARDY mark and purportedly offers for sale Complainant’s products. Therefore, it is clear to the Panel that the Website trades off Complainant’s reputation, which confirms that Respondent was seeking to target Complainant’s PIERRE HARDY mark through the disputed domain name which supports a finding of confusing similarity. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.15.

The addition of other terms here, “shoe” may bear on assessment of the second and third elements, the Panel finds the addition of such term 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 generic Top-Level Domain (“gTLD”) “.com” is disregarded in the case, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); *Hay & Robertson International Licensing AG v. C. J. Lovik*, WIPO Case No. [D2002-0122](#); see also [WIPO Overview 3.0](#), section 1.11.1).

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 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 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.

While Complainant claims that goods sold on the Website are counterfeits, it is not necessary for the Panel to make any ultimate determination as to the nature of the goods, as the evidence clearly shows Respondent has attempted to pass itself off as Complainant also considering the lack of a prominent and accurate disclaimer regarding the relationship between Complainant and Respondent on the Website. Panels have held that the use of a domain name for illegal activity, here, impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

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.

Having reviewed the available record, the Panel notes the composition of the disputed domain name, reproducing the dominant part of Complainant's mark with the omission of the letter "r" in the "Hardy" part of the disputed domain name and the addition of the word "shoe", for which Complainant has reputation, along with the content of the Website which mimics that of Complainant, prominently displaying Complainant's trademark and purportedly selling Complainant's goods at heavily discounted prices. All the above clearly shows that Respondent was aware of Complainant and its rights when registering the disputed domain name.

Panels have held that the use of a domain name for illegal activity, here, impersonation/passing off, 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, taking into account the fact that Complainant's mark is prominently displayed throughout the Website, that goods bearing Complainant's trademark appear to be sold on the Website and that Complainant placed an order on the Website and paid for it, while it never received the ordered goods.

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 <hadyshoe.com> be transferred to Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: May 2, 2024