

ADMINISTRATIVE PANEL DECISION

Bubble Beauty, Inc. DBA Bubble Skincare v. 林其韩 (Lin Qi Han)
Case No. D2024-0934

1. The Parties

The Complainant is Bubble Beauty, Inc. DBA Bubble Skincare, United States of America (“United States”), represented by VLP Law Group LLP, United States.

The Respondent is 林其韩 (Lin Qi Han), China.

2. The Domain Name and Registrar

The disputed domain name <hellobubbles.org> is registered with West263 International Limited (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on March 2, 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 5, 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 (JOHN DOES, JANE DOES) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 6, 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 in English on March 10, 2024.

On March 6, 2024, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On March 10, 2024, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 March 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 2, 2024.

The Center appointed Andrew Sim as the sole panelist in this matter on April 13, 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, founded in 2018, is a global retailer of a line of skincare products sold under the BUBBLE SKINCARE trademark. Its products are sold in over 12,000 stores nationwide through retailers such as Walmart. The products are also sold in numerous other countries through Amazon, Beauty Bay, as well as on the Complainant's official "BUBBLE" website at "www.hellobubble.com" (the "Complainant's Website").

The Complainant owns the domain name <hellobubble.com> which was registered on May 20, 2019. The Complainant also owns the trademark BUBBLE SKINCARE (the "Mark"), with registration details as follows:

- (i) BUBBLE SKINCARE [SKINCARE disclaimed] in Class 3, United States Trademark Registration No. 7043262, registered on May 2, 2023;
- (ii) BUBBLE SKINCARE in Classes 3, 5 and 35, United Kingdom Trademark Registration No. UK00003942231, registered on November 3, 2023; and
- (iii) BUBBLE SKINCARE in Class 3, International Registration No. 1753202, registered on August 31, 2023, designating Brazil, Canada and other jurisdictions.

The disputed domain name was registered on December 12, 2023. At the time of filing of the Complaint and this decision, the disputed domain name directs Internet users to a website that closely resembles the Complainant's Website in terms of layout and format (the "Respondent's Website"). The Respondent's Website displays the Mark and offers skincare products featuring the BUBBLE mark.

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.

Firstly, the Complainant contends that the disputed domain name is identical or confusingly similar to the Mark in which the Complainant has rights. In particular, the disputed domain name incorporates the distinctive element of the Mark, i.e., "bubble", in its entirety. The addition of the term "hello", the letter "s" and the generic Top-Level Domain (".org") does not prevent a finding of confusing similarity with the Mark, as the term "bubble" remains clearly recognizable in the disputed domain name. Further, the leading term "hello", as combined with the word "bubble", represents the second level component of the Complainant's registered domain name <hellobubble.com>. The Complainant argues that this shows an obvious attempt on the part of the Respondent to pass itself off as Complainant's official domain name.

Secondly, the Complainant submits that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent has never been authorized by the Complainant to use the Mark in any manner. The disputed domain name directs users to the Respondent's Website which offers various BUBBLE-branded skincare products in competition with the Complainant. Such use does not constitute any legitimate bona fide sale of goods or services or legitimate non-commercial or fair use. Further, the Respondent is not commonly known by the disputed domain name or any variation thereof.

Thirdly, the Complainant submits that the disputed domain name was registered and is being used in bad faith. The Respondent claimed to offer the Complainant's branded skincare products for sale at significant discounts at the Respondent's Website. It has intentionally attracted Internet users for commercial gain and has created a likelihood of confusion with the Complainant's Mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's Website. The Complainant also contends that the Respondent has disrupted the Complainant's business by diverting business and prospective customers away from the Complainant.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that:

- (a) the disputed domain name uses English words like "hello" and "bubbles", rather than Chinese words;
- (b) the Respondent's Website extensively uses English text and has used USD for pricing;
- (c) the Respondent's Website features English-only "contact us" pages which suggests an expectation of English communication with consumers; and
- (d) the Complainant is based in the United States and does not understand Chinese. If Chinese is used as the language of the proceeding, the Complainant will be required to incur high costs to translate the relevant documents into Chinese. This would result in delays and unfairness to the Complainant.

In exercising its discretion to use a language other than that of the Registration Agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.5.1).

The Panel accepts the Complainant's submissions regarding the language of the proceeding. The Complainant may be unduly disadvantaged by having to conduct the proceeding in Chinese. The Panel further notes that the Center has notified the Respondent in both Chinese and English of the language of the proceeding and commencement of the proceeding. The Respondent chose not to comment on the language of the proceeding nor respond to the Complaint in either English or Chinese. Having considered all relevant circumstances of this case, the Panel determines that English be the language of the proceeding.

6.2 Substantive Matter: Three Elements

Under the Policy, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which it has rights;
- (ii) the 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 the Complainant's trademark and the disputed domain name. [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 distinctive element of the Mark, namely the word "BUBBLE", 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 may bear on assessment of the second and third elements, the Panel finds that the addition of the term "hello" and the letter "s" here, 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.

In particular, the Panel notes that the Respondent has used the disputed domain name in connection with the Respondent's Website which features the Mark and offers Complainant's branded products. The Respondent's Website also mimics the Complainant's Website in terms of graphics and imagery. Even if the Respondent's Website offers to sell authentic BUBBLE-branded products, there is no accurate and prominent disclaimer on the website regarding the relationship between the Complainant and the Respondent (see [WIPO Overview 3.0](#), section 2.8). Moreover, the disputed domain name is identical to the second level component of the Complainant's official domain name <hellobubble.com>, save for the addition of one letter "s". Therefore, the Panel agrees with the Complainant that the use of the disputed domain name by the Respondent has been designed to impersonate the Complainant and mislead Internet users. The conduct of the Respondent fails to constitute a bona fide offering of goods or services, or legitimate noncommercial or fair use of 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 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.

In the present case, the Panel considers that the Respondent was most likely aware of the Complainant's right in the Mark before or when the Respondent registered the disputed domain name. The disputed domain name was registered after the Complainant registered the Mark. The Mark has become known to consumers in different countries through the Complainant's advertising and use. Coupled with the fact that the Complainant has been using the website at <hellobubble.com> as early as in 2019 and that the disputed domain name resolves to the Respondent's Website which features the Mark and which is designed in a similar way as the Complainant's Website, the Panel finds that the Respondent must have known of the Complainant before registering the disputed domain name.

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 <hellobubbles.org> be transferred to the Complainant.

/Andrew Sim/

Andrew Sim

Sole Panelist

Date: April 27, 2024