

ADMINISTRATIVE PANEL DECISION

PVH Corp. v. Hoang Hoang, PHT
Case No. D2024-1095

1. The Parties

The Complainant is PVH Corp., United States of America (“United States”), represented by Lipkus Law LLP, Canada.

The Respondent is Hoang Hoang, PHT, Viet Nam.

2. The Domain Name and Registrar

The disputed domain names <pvh-shopping.com>, <pvhshopping.com>, and <pvhstore.com> are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 12, 2024, against the three disputed domain names. On March 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 13, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names, 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 March 14, 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 March 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 March 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 10, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 17, 2024.

The Center appointed Reyes Campello Estebanz as the sole panelist in this matter on April 23, 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 was established in 1881 and has been engaged in designers' brand licensing since the late 1970s. It owns a diversified portfolio of brands, including CALVIN KLEIN and TOMMY HILFINGER, and operates under the PVH brand since 2011. Per the Complaint, the Complainant operates in over 40 countries, with 27,000 associates and 6,000 retail locations, and it generated over USD 9 billion in revenue in 2022.

The Complainant owns various trademark registrations for its brand PVH, including United States Trademark Registration No. 6,147,143 registered on September 8, 2020 (hereinafter the "PVH mark").

The Complainant further owns various domain names for its PVH mark, including <pvh.com> (registered on June 26, 1997), which resolves to its corporate website that provides information about the Complainant and its brands.

The disputed domain names were registered on March 4, 2024, and they resolve to the same website, in English language, which offers for sale clothing and various apparels at discounted prices. This website includes the terms "PIKEDY ONLINE STORE" and a logo of a shopping bag at its heading. At the bottom of this site and within its "About Us" section, this website provides information about its owner indicating the site belongs to a company called "PHT Pte. Ltd." located in Singapore.

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 names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to the PVH mark, as they incorporate this trademark with the addition of terms ("shopping" or "store") that intensify the confusion. The addition of a hyphen in one of the disputed domain names may further be considered case of "typosquatting".

The Respondent has no rights or legitimate interests in the disputed domain names. The Respondent is not affiliated with the Complainant, is not authorized to use the PVH mark, and is not commonly known by the disputed domain names. The Respondent is using the disputed domain names to sell products unaffiliated with the Complainant that are in direct competition with some of the products sold under the Complainant's brands. For example, the Respondent's website advertises various fashion items, including men's underwear and women's cashmere sweaters that are products offered by the Complainant under its brands, i.e. CALVIN KLEIN.

The Respondent registered and uses the disputed domain names in bad faith. The disputed domain names were registered many years after the Complainant's first use of the PVH mark. Due to the reputation of the PVH mark and the Complainant, the Respondent was aware of and targeted them in bad faith. The Respondent is using the disputed domain names in bad faith to divert the Complainant's customers or potential customers to his website for commercial gain. The Respondent is taking advantage of the goodwill associated with the Complainant, and misleading consumers. There is no plausible actual or contemplated active use of the disputed domain names that would not be illegitimate and constitute an infringement of the

Complainant's rights. The Respondent's registration of the disputed domain names prevents the Complainant from registering domain names corresponding to its trademark, and was done likely for selling the disputed domain names for valuable consideration in excess of any out-of-pocket expenses. The Complainant lists nearly over 650 domain names probably registered by the Respondent, under various names, some of which feature well-known brands.¹

B. Respondent

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

6. Discussion and Findings

The Complainant has made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material and allegations, and performing some limited independent research under the general powers of the Panel articulated, inter alia, in paragraph 10 of the Rules.

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, namely the PVH mark. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are 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, "shopping" or "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 names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Therefore, 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

¹The Complainant cites the following brands: DIVINE NATURE, SIMPLER TRADING, CK (a likely reference to CALVIN KLEIN), HERBALIFE NUTRITION, HP, JAKE PAUL and LION KING.

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 names. 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 names such as those enumerated in the Policy or otherwise.

The Panel notes that the Respondent's name, provided by the Registrar verification, is different to the disputed domain names or the term "pvh".

The Panel further notes the disputed domain names resolve to a website that includes at its heading the terms "PIKEDY ONLINE STORE", which share no similarities with the disputed domain names or the term "pvh". Additionally, this website indicates it is owned and/or operated by a company which name is different to the term "pvh" ("PHT Pte. Ltd.").

Therefore, the Panel finds nothing in the record indicating that the Respondent may be commonly known by the terms included in the disputed domain names or by the term "pvh".

The Panel further finds the use of the disputed domain names do not confer any rights or legitimate interests to the Respondent, as the Respondent is not making a bona fide offering of goods and services through the disputed domain names.

Panels have held that resellers, distributors, or service providers using a domain name containing the complainant's trademark may be making a bona fide offering of goods and services and thus have a legitimate interest in such domain name, when certain cumulative requirements are met, outlined in the "Oki Data test". [WIPO Overview 3.0](#), section 2.8.1. However, these requirements are not met in this case, as the Respondent is offering through the disputed domain names products unaffiliated with the Complainant, in direct competition with some of the products sold under the Complainant's brands, and the Respondent's site does not disclose its lack of relationship with the Complainant and its trademarks.

Therefore, the Panel finds that there is no indication in the available record of any rights or legitimate interests in the Respondent that may justify its registration and use of the disputed domain names under the Policy.

Additionally, the Panel finds the inclusion of the reputed PVH mark with the additional terms in the disputed domain names ("shopping" or "store") creates a risk of implied affiliation, as these terms will be considered as an indication related to official websites of the commercialization of the Complainant's brands. The addition of these terms to the PVH mark within the disputed domain names contributes to generate the impression that any website linked to the disputed domain names is affiliated to or owned by the Complainant and correspond to one of its online stores.

These circumstances cannot confer rights or legitimate interests to the Respondent under the Policy. Therefore, based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

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 due to the reputation of the Complainant and its brands, the Respondent knew or should have known about the Complainant and its PVH mark when he registered the disputed domain name, and the circumstances of this case indicate that he pointed to the Complainant and its trademark in bad faith.

The Panel notes the incorporation of the reputed PVH mark in the disputed domain names with no sign of any rights or legitimate interests in the Respondent as previously analyzed, and the use of the disputed domain name in connection to a website that partially commercializes goods unaffiliated with the Complainant that compete with the Complainant's brands. These circumstances point to the Respondent's bad faith.

The Panel finds the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant and its PVH mark, which constitutes bad faith under the Policy.

Therefore, 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 names <pvh-shopping.com>, <pvhshopping.com>, and <pvhstore.com> be transferred to the Complainant.

/Reyes Campello Estebarez/

Reyes Campello Estebarez

Sole Panelist

Date: May 3, 2024