

ADMINISTRATIVE PANEL DECISION

Hill House Home, Inc. v. Theresa W Chavez
Case No. D2024-1171

1. The Parties

Complainant is Hill House Home, Inc., United States of America (“USA”), represented by Fixer Advisory Group, USA.

Respondent is Theresa W Chavez, USA.

2. The Domain Name and Registrar

The disputed domain name <hillhousehomeh.shop> (the “Domain Name”) is registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 18, 2024. On March 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. That same day, 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 (Sav.com LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on March 21, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on March 21, 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 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 14, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on April 15, 2024.

The Center appointed Harrie R. Samaras as the sole panelist in this matter on April 22, 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

According to its website (<hillhousehome.com>), Complainant is in the business of “design[ing] products that bring beauty and joy to everyday rituals.” It sells various products including: clothing for adults, children and babies; shoes and accessories; and bedding/home. Such products include more specifically: totes, pajamas, dresses, wallpaper, headband, tummy-time mat, tights, duvets, candles).

Complainant owns the following USA trademark registration for the mark HILL HOUSE HOME: 4,912,987 (registered March 8, 2016) (the “HILL HOUSE HOME Mark” or the “Mark”) that it uses in conjunction with the sale of the products.

The Domain Name was registered on February 24, 2024. Respondent is using the Domain Name in connection with an active website (the “Respondent’s Website”) to sell what appears to be the exact same and similar goods as those sold by Complainant (e.g., totes, pajamas, dresses, wallpaper, headband, tummy-time mat, tights, duvets, candles) and the same designs (e.g., FEED X Hill House Home Mini Market Tote) that Complainant sells. The photos of various products on Respondent’s Website (e.g., “Neil’s candle”, “The Cloud Duvet Insert”, “FEED X Hill House Home Mini Market Tote”) are the same as the photos of these same products on Claimant’s website, perhaps a little fuzzier. Furthermore, Respondent’s Website copies Complainant’s collection names and product descriptions (e.g., “The Aurora Sleep Dress”, “The Alexa Top”, “The Astrid Top”, “The Violet Ruffle Sleeve Puffer Jacket”, “The Baby Hotel Robe”).

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

Notably, Complainant contends that it has rights in the HILL HOUSE HOME Mark and Respondent is using that Mark in the Domain Name (<hillhousehomeh.shop>) adding one extra letter “h” and “.shop”.

Complainant also contends that Respondent lacks any rights or legitimate interests in the Domain Name because: (1) there is no evidence demonstrating Respondent’s use of, or preparations to use, the Domain Name or any name corresponding to the Domain Name in connection with a bona fide offering of goods or services before registering the Domain Name; (2) there is no evidence or any reason to believe that Respondent has ever been commonly known by the Domain Name; (3) Complainant has never authorized Respondent to use the Mark; (4) Respondent is using the Domain Name in bad faith to mislead consumers and divert web traffic to Respondent’s Website with a nearly identical and confusingly similar Domain Name; and (5) Respondent is attempting to illegitimately acquire personal information while tarnishing Complainant’s reputation for customer service and quality products. Although Complainant was unable to complete any transactions, this type of nefarious activity clearly demonstrates that Respondent is not making legitimate noncommercial or fair use of the Domain Name.

Furthermore, Complainant argues that by using the Domain Name without any authorization or consent, and by creating a likelihood of confusion with the Mark, Respondent intentionally attempted to attract, for commercial gain, Internet users to Respondent’s Website. Complainant has owned and operated its website (<hillhousehome.com>) since registering its domain name with Namecheap, Inc. on October 25, 2013. Respondent displays and sells not only the same products and collections, but Respondent has copied

product descriptions and model images. Based on the totality of factors, it is clear that Respondent is acting in bad faith with intent to create a likelihood of confusion with the Mark and Complainant's legitimate e-commerce website.

B. Respondent

Respondent did not reply to 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 Complainant's trademark and the 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 entirety of the Mark is reproduced within the Domain Name. Accordingly, the Domain Name is confusingly similar to the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The Top-Level Domain is generally not determinative in establishing whether the Domain Name is confusingly similar to a complainant's mark (See, [WIPO Overview 3.0](#), section 1.11).

Although the addition of the letter "h" here may bear on assessment of the second and third elements, the Panel finds that its addition does not prevent a finding of confusing similarity between the 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the 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 Domain Name such as those enumerated in the Policy or otherwise.

More specifically, what stands unrebutted is that: (1) Respondent did not use, or prepare to use, the Domain Name or any name corresponding to the Domain Name in connection with a bona fide offering of goods or services before registering the Domain Name; (2) Respondent has not been commonly known by the

Domain Name; and (3) Complainant has never authorized Respondent to use the Mark for any purpose. Furthermore, Respondent is using the Domain Name for commercial, non bona fide, purposes by misleading consumers and diverting web traffic to Respondent's Website to sell the same (or similar) goods as Complainant sells on its website.

Panels have held that the use of a domain name for illegal activity can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. Complainant argues that Respondent is attempting to illegitimately acquire personal information from consumers allegedly for illegal purposes, though Complainant admits it was unable to complete any transactions to show the same. Without such evidence, the Panel is not able to definitively conclude that Respondent has engaged or is engaging in illegal activity using the Domain Name. That said, the composition of the Domain Name (the Mark plus the letter "h"), and the content of the page lead to the clear conclusion of an intent to unfairly confuse users as to the source of the goods.

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 finds that Respondent had to have known about the Mark and Complainant's rights in it because Respondent: (1) registered the Domain Name approximately 8 years after Complainant began using the Mark; (2) registered a domain name which includes in its entirety the Mark, in which it has no rights or legitimate interests; (3) registered a domain name, which is almost exactly like Complainant's domain name (<hillhousehome.com>) but for the additional letter "h" at the end of the Mark and a different Top-Level domain, 11 years after Complainant registered its domain name on October 25, 2013; (4) chose a Top-Level domain that reflects the commercial business Complainant is in – selling/shopping – and which Respondent is mirroring; (5) is selling the same or similar goods as Complainant does on its website; and (6) is using what appears to be Complainant's photographs to sell the same or similar goods Complainant sells on its website, as well as the same phraseology or description of those goods. This conduct not only constitutes bad faith registration of the Domain Name but also bad faith use of it insofar as Respondent is intentionally attempting to attract, for commercial gain, Internet users by creating a likelihood of confusion with Complainant's Mark.

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 Domain Name <hillhousehomeh.shop> be transferred to Complainant.

/Harrie R. Samaras/

Harrie R. Samaras

Sole Panelist

Date: May 2, 2024