

ADMINISTRATIVE PANEL DECISION

EE Holding Group LLC v. THE Media
Case No. D2024-1315

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 THE Media, United States.

2. The Domain Name and Registrar

The disputed domain name <ericofficialshorts.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 27, 2024. On March 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 28, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 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 April 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 April 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 24, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 25, 2024.

The Center appointed Evan D. Brown as the sole panelist in this matter on April 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 sells clothing, including through its website “www.ericmanuel.com”. It owns the mark ERIC EMANUEL, for which it enjoys the benefit of registration (see United States Reg. No. 6,721,224, registered on May 24, 2022). The Complainant also has trademark rights in a stylized logo comprised of the letters “EE” imposed upon one another. According to the Whois information, the disputed domain name was registered on July 17, 2023. The Complainant asserts that the Respondent has used the disputed domain name to redirect 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. The Respondent’s website goes as far as replicating the Complainant’s EE logo.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant’s trademark; that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant 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. The Panel finds that all three of these elements have been met in this case.

A. Identical or Confusingly Similar

This first element functions primarily as a standing requirement. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7. 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. This element requires the Panel to consider two issues: first, whether the Complainant has rights in a relevant mark; and second, whether the disputed domain name is identical or confusingly similar to that mark.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#). The Complainant has demonstrated its rights in the ERIC EMANUEL mark by providing evidence of its trademark registration and the Panel finds that the dominant feature of the mark is recognizable within the disputed domain name.

In these circumstances, the Panel finds the disputed domain name to be confusingly similar to the Complainant's ERIC EMANUEL mark. Further, although content of the website associated with the domain name is usually disregarded by panels when assessing confusing similarity under the first element ([WIPO Overview 3.0](#), section 1.15), in some instances, panels have taken note of the content of the website associated with a domain name to confirm confusing similarity whereby it appears prima facie that the respondent seeks to target a trademark through the disputed domain name. Guided by these principles, in this case the Panel takes also note of the content of the Respondent's website - which imitates and obviously targets the Complainant - to confirm the confusing similarity between the disputed domain name and the Complainant's mark.

Accordingly, the Panel finds that the Complainant has established the first element under the Policy.

B. Rights or Legitimate Interests

The Panel evaluates this element of the Policy by first looking to see whether the Complainant has made a prima facie showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainant makes that showing, the burden of production of demonstrating rights or legitimate interests shifts to the Respondent (with the burden of proof always remaining with the Complainant). See [WIPO Overview 3.0](#), section 2.1; *AXA SA v. Huade Wang*, WIPO Case No. [D2022-1289](#).

On this point, the Complainant asserts that (1) it did not authorize the Respondent to register the disputed domain name or otherwise use the Complainant's marks, (2) there is no affiliation, association or connection, past or present, between the Complainant and the Respondent, (3) the Respondent has not been commonly known by the disputed domain name, and (4) the Respondent has not made any preparations to use the disputed domain name in connection with a bona fide offering of goods or services. Instead, the Complainant asserts that the Respondent has used the disputed domain name to resolve to a fraudulent website designed to mimic the Complainant's official website, to deceive consumers into believing that such bogus website is authorized by the Complainant, and to sell counterfeit versions of the Complainant's products.

The Panel finds that the Complainant has made the required prima facie showing. The Respondent has not presented evidence to overcome this prima facie showing. And nothing in the record otherwise tilts the balance in the Respondent's favor.

Accordingly, the Panel finds that the Complainant has established this second element under the Policy.

C. Registered and Used in Bad Faith

The Policy requires a complainant to establish that the disputed domain name was registered and is being used in bad faith. The Policy describes several non-exhaustive circumstances demonstrating a respondent's bad faith use and registration. Under paragraph 4(b)(iv) of the Policy, a panel may find bad faith when a respondent "[uses] the domain name to intentionally attempt to attract, for commercial gain, Internet users to [respondent's] website or other online location, by creating a likelihood of confusion with complainant's mark as to the source, sponsorship, affiliation, or endorsement of [respondent's] website or location or a product or service on [the respondent's] website or location".

The Respondent registered and is using the disputed domain name in bad faith. Establishing a website to sell potentially counterfeit products, using a disputed domain name confusingly similar to the Complainant's mark, is a clear example of bad faith registration and use under the Policy. See *Columbia Sportswear Company v. PrivacyGuardian.org / Dorota Borowska*, WIPO Case No. [D2019-0314](#).

Accordingly, the Panel finds that the Complainant has established the third element under 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 <ericofficialshorts.com> be transferred to the Complainant.

/Evan D. Brown/

Evan D. Brown

Sole Panelist

Date: May 13, 2024