

ADMINISTRATIVE PANEL DECISION

FullBeauty Brands Operations, LLC v. xai liu
Case No. D2024-1366

1. The Parties

The Complainant is FullBeauty Brands Operations, LLC, United States of America (“United States”), represented by Frost Brown Todd LLC, United States.

The Respondent is xai liu, China.

2. The Domain Name and Registrar

The disputed domain name <cuupus.com> (the “Domain Name”) is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 29, 2024. On April 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On April 4, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 1, 2024.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on May 3, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a fashion and home goods retailer for plus-size women and big and tall men. It was founded in 1901. It offers products under many brands, one of which is the CUUP brand for women's bras. It was founded in 2018. The Complainant and its predecessor-in-interest have also owned and used the <shopcuup.com> domain name for its online e-commerce retail website. The Complainant has received recognition, including being named the "Best Mesh Bra" brand in 2023 by Vogue.

The Complainant holds trademark registrations for CUUP, for example United States registration number 6,180,524, registered on October 20, 2020.

The Domain Name was registered on August 4, 2022. The Domain Name resolves to a website purporting to sell CUUP®-branded products while using the Complainant's copyrighted photographs and artwork.

5. Parties' Contentions

A. Complainant

The Complainant provides evidence of trademark registrations and argues that the Complainant and its CUUP trademark are well known in the fashion industry. The Complainant contends that the Domain Name incorporates the Complainant's trademark in its entirety and adds the geographical term "US". The addition does nothing to obviate the confusing similarity.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Respondent's use of the Domain Name is an attempt to deceive consumers into believing that the Respondent's website is associated with the Complainant. The Respondent is neither a licensee nor an authorized reseller or retailer of the Complainant's goods. The Domain Name is used to sell infringing (and competitive) goods.

Based on the use of the Domain Name, the Complainant argues that the Respondent attempts to attract Internet searchers to its website by creating a likelihood of confusion with the Complainant's trademark as to "source, sponsorship, affiliation, or endorsement of the website." The Respondent deliberately attracts Internet users for commercial gain by creating a likelihood of confusion with the Complainant's trademark.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The first element functions primarily as a standing requirement. The standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the 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.

The Complainant has established that it has rights in the trademark CUUP. In this case, the Domain Name incorporates the Complainant's trademark, with the addition of "US". The additional element does not prevent a finding of confusing similarity between the Domain Name and the Complainant's trademark. For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD") (in this case ".com"). [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which a respondent may demonstrate rights or legitimate interests in a disputed domain name.

While 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 often impossible 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. 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.

Based on the evidence in the present matter, the Respondent is not affiliated or related to the Complainant in any way. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent’s use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services. On the contrary, the Respondent’s use is evidence of bad faith, see below. Furthermore, the Panel finds that the composition of the Domain Name carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

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.

Based on the composition and use of the Domain Name, the Panel finds that the Respondent knew of the Complainant when he registered the Domain Name. The Domain Name resolves to a website purporting to sell the Complainant’s products while using the Complainant’s copyrighted photographs and artwork. It appears to be an attempt to deceive Internet users. Thus, the Respondent’s use and registration of the Domain Name is clear evidence of bad faith under the Policy.

Based on the available record, 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 the Domain Name <cuupus.com> be transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: May 8, 2024