

ADMINISTRATIVE PANEL DECISION

Bubble Beauty, Inc. DBA Bubble Skincare v. 卢剑锋 (jianfeng lu)
Case No. D2024-1378

1. The Parties

The Complainant is Bubble Beauty, Inc. DBA Bubble Skincare, United States of America, represented by Meister Seelig & Fein LLP, United States of America.

The Respondent is 卢剑锋 (jianfeng lu), China.

2. The Domain Name and Registrar

The disputed domain name <bubbleskincareshop.com> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 1, 2024. On April 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 3, 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 (Redacted) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 3, 2024 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On the same day, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. The Complainant filed an amended Complaint and its request that English be the language of the proceeding on April 3, 2024. 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 in Chinese and English of the Complaint, and the proceedings commenced on April 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 30, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 3, 2024.

On May 14, 2024, the Center noted that due to an administrative oversight, the Written Notice was not sent by courier to the Respondent on April 10, 2024. Therefore, the Center sent the Written Notice in both Chinese and English by courier to the Registrar-provided address of the Respondent and granted the Respondent an additional 10-day period, i.e., until May 24, 2024, to indicate whether it wishes to participate to the proceeding. The Written Notice was not deliverable by courier to the Registrar-provided address of the Respondent and the Respondent did not respond by May 24, 2024.

The Center appointed Jacob Changjie Chen as the sole panelist in this matter on May 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 is a company incorporated in the United States of America and is a global skincare retailer operating an online shop via its official domain name <hellobubble.com> which was registered on May 20, 2019. Founded in 2018 by its CEO Shai Eisenman, the Complainant offers a pioneering skincare line for young skin, available in over 12,000 retail stores nationwide and online platforms such as Amazon, Beauty Bay, and the Complainant's official website.

The Complainant owns several registrations of BUBBLE SKINCARE trademark, including No. 7043262, the United States of America trademark, registered on May 2, 2023, and No. 1753202, International trademark, registered on August 31, 2023.

According to the information disclosed by the Registrar, the Respondent is 卢剑锋 (jianfeng lu), located in China.

The disputed domain name was registered on November 18, 2023, and resolves to a website boldly displaying the Complainant's BUBBLE SKINCARE trademark and purportedly offering products relating to the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for the transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to its BUBBLE SKINCARE trademark. The disputed domain name entirely incorporates the BUBBLE SKINCARE trademark with the addition of term "shop" and the generic Top-Level Domain ("gTLD") ".com". The additional term "shop" and the gTLD ".com" do not prevent the finding of confusing similarity between the disputed domain name and the Complainant's trademark. Thus, the disputed domain name is confusingly similar to the Complainant's BUBBLE SKINCARE trademark.

The Complainant further alleges that the Respondent has no rights or legitimate interests with respect to the disputed domain name. The Respondent has never been authorized by the Complainant to use any of its trademarks in any manner. The Respondent is not commonly known by the disputed domain name. The disputed domain name resolves to an imitation website claiming to offer various skincare products for sale under the BUBBLE SKINCARE trademark, which constitutes no bona fide commercial or fair or legitimate noncommercial use of the disputed domain name.

The Complainant finally asserts that the Respondent registered and is using the disputed domain name in bad faith. The Respondent has actual knowledge of the Complainant's rights in the Complainant's trademarks as the Respondent has registered the disputed domain name well after the Complainant had registered the Complainant's trademarks, and is using the disputed domain name to direct Internet users to a webpage offering competing goods under the Complainant's trademarks. In addition, the Respondent has registered and is using the disputed domain name to disrupt the Complainant's business and attract Internet users for commercial gain by creating a likelihood of confusion with the Complainant's BUBBLE SKINCARE trademark as to the source, sponsorship, affiliation, or endorsement of the website to which the disputed domain name resolved.

B. Respondent

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

6. Discussion and Findings

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 1) the Complainant is unable to communicate in Chinese, and using Chinese as language of the proceeding would unfairly disadvantage and burden the Complainant and delay the proceedings and adjudication of this matter; 2) the disputed domain name is comprised of Latin characters and English words, and the content at the website associated with the disputed domain name is in English, indicating that the Respondent is able to understand English.

The Respondent did not make any specific submissions with respect to the language of the proceeding.

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).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

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 mark 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 term “shop” may bear on assessment of the second and third elements, the Panel finds the addition of such term 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. 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 disputed domain name resolves to a website boldly displaying the Complainant’s BUBBLE SKINCARE trademark, with a legend at the bottom of the website identifying “© BUBBLES BEAUTY INC 2023” and purportedly offering products relating to the Complainant, while creating the impression that the website is operated by the Complainant. Such use of the disputed domain name cannot be deemed as a bona fide offering of goods or services, or a legitimate noncommercial or fair use. In addition, the nature of the disputed domain name, comprising the BUBBLE SKINCARE trademark and the additional term “shop”, is inherently misleading, and carries a risk of implied affiliation. Such composition of the disputed domain name does not support a finding of any rights or legitimate interests on the Respondent.

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 notes that the registration date of the Complainant’s BUBBLE SKINCARE trademark predates the registration date of the disputed domain name. According to the Complainant’s evidence, the Panel accepts that the Complainant has been operating and advertising its business under the BUBBLE SKINCARE trademark and based on the Complainant’s wide investment in its business operation and online sales under the BUBBLE SKINCARE trademark, it is reasonable that the Complainant and its BUBBLE SKINCARE trademark and products have gained a certain degree of reputation and recognition among relevant consumers worldwide. Thus, the Panel views that the Respondent should have been aware of the Complainant and the BUBBLE SKINCARE trademark. In addition, the Respondent resolves the

disputed domain name to a website boldly displaying the BUBBLE SKINCARE trademark and purportedly offering products relating to the Complainant, which could prove that the Respondent has actual knowledge of the Complainant and the BUBBLE SKINCARE trademark at the time of registering the disputed domain name.

The Respondent boldly displays the BUBBLE SKINCARE trademark and purportedly offers products relating to the Complainant on the website associated with the disputed domain name. The Panel views that the Respondent has intention to cause confusion to Internet users that he has relationship with the Complainant and the BUBBLE SKINCARE trademark and gain commercial benefits therefrom. Thus, the Panel holds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website by creating likelihood of confusion with the Complainant and the BUBBLE SKINCARE trademark as to the source, sponsorship, affiliation, or endorsement of his website or location or products and services.

Given all the circumstances of the case, the Panel concludes that the Respondent registered and is using the disputed domain name in bad faith.

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 <bubbleskincareshop.com> be transferred to the Complainant.

/Jacob Changjie Chen/

Jacob Changjie Chen

Sole Panelist

Date: June 12, 2024