

## **ADMINISTRATIVE PANEL DECISION**

Helly Hansen AS v. Corporate Brand Protection, DNS Admin  
Case No. D2024-1418

### **1. The Parties**

Complainant is Helly Hansen AS, Norway, represented by CSC Digital Brand Services Group AB, Sweden.

Respondent is Corporate Brand Protection, DNS Admin, United Kingdom.

### **2. The Domain Name and Registrar**

The disputed domain name <hellytech.com> is registered with NameSilo, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 3, 2024. On April 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 4, 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 for Privacy, PrivacyGuardian.org) and contact information in the Complaint. The Center sent an email communication to Complainant on April 8, 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 April 8, 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 April 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 1, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on May 7, 2024.

The Center appointed Richard C.K. van Oerle as the sole panelist in this matter on May 14, 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**

Complainant, founded in 1877, produces and sells jackets and other outdoor and work-related apparel. Complainant is headquartered in Oslo, Norway.

Complainant holds numerous trademarks for HELLY TECH on a worldwide basis, inter alia:

- United Kingdom Trademark Registration, registration n° UK00900459586, registered May 18, 1999, where Respondent is apparently located;
- Norway Trademark Registration, registration n° 134234, registered November 17, 1988;
- European Union Trademark Registration, registration n° 000459586, registered on May 18, 1999,
- International Trademark Registration, registration n° 1007095, registered on April 15, 2009, designating Australia, Switzerland, China, Colombia, Iceland, Republic of Korea and Singapore;
- United States of America Trademark Registration, registration n° 2552884, registered March 26, 2002.

All registrations have been duly renewed and are still valid. The registrations will jointly be referred to, in singular, as the “Trademark”.

Complainant also operates a website under <hellyhansen.com>, registered on April 11, 1997.

The disputed domain name was first registered on May 16, 2017. When the Complaint was filed and at the time of the decision, the disputed domain name resolves to a webpage which stated “This domain name is up for sale!” and included a contact form to be completed for inquiries. No price was stated.

On January 2, 2024, Complainant’s representatives sent a letter of summons to the Registrar as well as to the email address available from the Whois-information requesting to transfer the disputed domain name within seven days of receipt of the letter. No response to this communication was received.

#### **5. Parties’ Contentions**

##### **A. Complainant**

Complainant contends that it has been making professional grade gear to help people stay and feel alive for more than 140 years. Helly Hansen gear is worn and trusted by professionals on oceans, mountains and worksites. As the No.1 apparel brand for ski professionals, the brand can be found at more than 200 ski resorts and guiding operations around the world and worn by more than 55,000 ski professionals. Complainant partners and participates in some of the most iconic regattas and sailing associations with Complainant’s sailing gear worn by world-class sailors. As a leading Scandinavian workwear brand, the Helly Hansen brand can also be seen at worksites where performance, protection, and safety matter most.

In addition, Complainant has developed first-to-market innovations. In particular, the HELLY TECH® technology refers to the tough weatherproof outer layer of the gear, specially designed for the harshest conditions.

Complainant maintains a strong Internet presence. Similarweb.com ranks the website found at "www.hellyhansen.com" 21,787<sup>th</sup> globally and 10,446<sup>th</sup> in the United States of America.

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

Notably, Complainant contends that the disputed domain name is identical or confusingly similar to the Trademark in which Complainant has rights. The disputed domain name solely consists of Complainant's Trademark, resulting in a domain name that is identical to Complainant's Trademark and thus meeting the requirements under the Policy.

Complainant submits that Respondent has no rights or legitimate interests in the disputed domain name. Respondent is not sponsored by or affiliated with Complainant in any way. Nor has Complainant given Respondent license, authorization, or permission to use Complainant's trademark in any manner, including in domain names.

Respondent is not commonly known by the disputed domain name, which evidences a lack of rights or legitimate interests.

Furthermore, at the time of filing the Complaint, Respondent was using a privacy WHOIS service, which past panels have also found to equate to a lack of legitimate interest.

The Whois information identifies the Registrant as "Redacted For Privacy / See PrivacyGuardian.org". Upon verification with the relevant registrar, the Registrant has been identified as "Corporate Brand Protection / DNS Admin", which does not resemble the disputed domain name in any manner. Thus, where no evidence suggests that Respondent is commonly known by the disputed domain name, then Respondent cannot be regarded as having acquired rights to or legitimate interests in the disputed domain name.

Respondent's registration of a domain name that is identical to Complainant's Trademark carries a high risk of implied affiliation or misrepresentation that any use of the disputed domain name cannot be considered fair use.

The disputed domain name is also listed for sale. Offering a disputed domain name for sale while inactively holding the disputed domain name's resolving website is generally not considered a bona fide offering of goods or services, nor a legitimate noncommercial or fair use.

Complainant alleges that the disputed domain name was registered and is being used in bad faith.

Complainant and its Trademark are known internationally, with trademark registrations across numerous countries. By registering a domain name that is an exact reproduction of the Trademark, Respondent has created a domain name that is identical to the Trademark. As such, Respondent has demonstrated a knowledge of and familiarity with Complainant's brand and business.

Further, by personally contacting one of Complainant's employees regarding the acquisition of the disputed domain name, it is not possible to conceive of a plausible situation in which Respondent would have been unaware of Complainant's brands at the time the disputed domain name was registered.

Complainant has been in business since 1877 with more than 55,000 professional skiers, sailors, ski patrollers, rescue services, and mountain guides who put their trust in Complainant's products, including its HELLY TECH technology.

Further, performing searches across several Internet search engines for "helly tech" returns multiple links referencing Complainant and its business.

Respondent has also offered to sell the disputed domain name. This constitutes bad faith because Respondent has demonstrated an intent to sell, rent, or otherwise transfer the disputed domain name for valuable consideration in excess of his out-of-pocket expenses. It is well established that seeking to profit from the sale of an identical or confusingly similar domain name that incorporates a third party's trademark demonstrates bad faith.

Thus, the disputed domain name can only be taken as intending to cause confusion among Internet users as to the source of the disputed domain name, and the disputed domain name must be considered as having been registered and used in bad faith, with no good faith use possible.

Respondent, at the time of initial filing of the Complaint, had employed a privacy service to hide its identity, which past Panels have held serves as further evidence of bad faith registration and use.

Moreover, Respondent has ignored Complainant's attempts to resolve this dispute outside of this administrative proceeding. Complainant argues that failure to respond to a cease-and-desist letter may properly be considered a factor in finding bad faith registration and use of a domain name.

Complainant requests that the disputed domain name be transferred to Complainant.

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy provides that a complainant must prove each of the following elements in order to succeed in its Complaint:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) 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 burden of proof of each element is borne by Complainant. Respondent's default does not by itself mean that Complainant is deemed to have prevailed. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 4.3.

### **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 disputed domain name. [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 disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on 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 Respondent. As such, where a complainant makes out a prima facie case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on Complainant). If Respondent fails to come forward with such relevant evidence, 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 disputed 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 disputed domain name such as those enumerated in the Policy or otherwise.

There is no evidence on the record that suggests that Respondent is commonly known by the disputed domain name. The Registrant has been identified as “Corporate Brand Protection / DNS Admin”, which does not resemble the disputed domain name in any manner.

Respondent’s registration of a domain name that is identical to Complainant’s Trademark carries a high risk of implied affiliation or misrepresentation that any use of the disputed domain name cannot be considered fair use. [WIPO Overview 3.0](#), section 2.5.1.

As the disputed domain name is also listed for sale, while being inactive, is not considered a bona fide offering of goods or services, nor a legitimate noncommercial or fair use.

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 considering Complainant’s worldwide reputation and presence on the Internet and the nature of the disputed domain name, that is identical to the Trademark, it is more likely than not that Respondent was or should have been aware of the Trademark prior to registering the disputed domain name.

The Panel notes that it is not possible to conceive of any plausible actual or contemplated active use of the domain name by Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of Complainant’s rights.

Given the clear absence of rights or legitimate interests in the disputed domain name and that Respondent has provided no explanation as to the use of it as well as offering the disputed domain name for sale, is evidence of circumstances indicating that Respondent has registered or has acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to Complainant for valuable consideration in excess of its documented out-of-pocket costs directly related to the disputed domain name. Such conduct falls squarely within paragraph 4(b)(i) of the Policy and establishes that the registration and use of the disputed domain name was in bad faith.

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 disputed domain name <hellytech.com> be transferred to Complainant.

*/Richard C.K. van Oerle/*

**Richard C.K. van Oerle**

Sole Panelist

Date: May 28, 2024