

ADMINISTRATIVE PANEL DECISION

Calvin Klein Trademark Trust and Calvin Klein, Inc. v. Wan Chen
Case No. D2024-1426

1. The Parties

The Complainants are Calvin Klein Trademark Trust, United States of America (“United States”), and Calvin Klein, Inc., United States, represented by Lipkus Law LLP, Canada.

The Respondent is Wan Chen, China.

2. The Domain Name and Registrar

The disputed domain name <calvinkleinpreffered.com> is registered with Dynadot Inc. (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 5, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and its 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 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 6, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 13, 2024.

The Center appointed Knud Wallberg as the sole panelist in this matter on May 27, 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 Complainants have been engaged in the production, sale and licensing of men's and women's apparel, fragrances, accessories, and footwear, among other things. Since its formation, the Complainant Calvin Klein Inc. has used and registered the trademark CALVIN KLEIN in the United States and throughout the world, including United States Trademark Registrations No. 1,086,041 CALVIN KLEIN, registered February 21, 1978, for goods in international class 25 and No. 1,633,261 CALVIN KLEIN (stylized), registered January 29, 1991, also for goods in international class 25. The Complainant Calvin Klein Trademark Trust is the registered owner, and the Complainant Calvin Klein Inc. is the beneficial owner, of the trademarks owned by Calvin Klein Trademark Trust. The Complainants are hereinafter collectively referred to as the "Complainant."

The Complainant also claims that it owns a number of domain name registrations which wholly incorporate the Complainant's CALVIN KLEIN marks, including <calvinklein.com>, <calvinkleinbags.com>, <calvinkleinunderwear.com>, and <calvinkleinfashion.com>.

The disputed domain name was registered on September 5, 2009, and resolves to a website that contains a parking page with PPC links.

5. Parties' Contentions

A. Complainant

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

Notably, the Complainant contends that that the disputed domain name is confusingly similar to its widely known trademark CALVIN KLEIN; that the Respondent has no rights or legitimate interests in the disputed domain name; and, that the Respondent registered and is using the disputed domain name in bad faith. The Complainant requests the transfer of the disputed domain name to it.

B. Respondent

The Respondent did not reply to the 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 the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[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 Panel finds the mark is recognizable 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 terms here, “preffered” being a misspelling of the word “preferred”, 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.

The Panel considers that the record of this case reflects that: the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4. Rather, the Respondent has composed the disputed domain name of the Complainant’s well-known trademark and a typosquatted version of the term “preferred” which can be associated with the Complainant’s email subscriber program titled “Calvin Klein Preferred Program”, and has used the disputed domain name to host a PPC landing page wherein the Respondent presumably earns click-through revenue from the unsuspecting Internet users misled to the disputed domain name by virtue of the implied affiliation with the Complainant.

Based on the available record, the Panel finds that the second element of the Policy has not 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.

The Panel considers that the record of this case reflects that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its web site or other on-line location, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s web site or location or of a product or service on the Respondent’s web site or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

Based on the available record, the Panel finds that the third element of the Policy has been established.

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 <calvinkleinpreffered.com> be transferred to the Complainant.

/Knud Wallberg/

Knud Wallberg

Sole Panelist

Date: June 12, 2024