

## **ADMINISTRATIVE PANEL DECISION**

Tony Provenzano, Winston Wolfe Media Group, LLC v. Warut Chuaynoo  
Case No. D2024-1575

### **1. The Parties**

The Complainant is Tony Provenzano, Winston Wolfe Media Group, LLC, United States of America (“United States”), represented by IntegriShield, United States.

The Respondent is Warut Chuaynoo, Thailand.

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

The disputed domain name <billshappen247.com> is registered with URL Solutions, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 11, 2024. On April 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 16, 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 (Private Whois) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 17, 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 amended Complaint on April 20, 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 the Respondent of the Complaint, and the proceedings commenced on April 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 14, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 17, 2024.

The Center appointed Kaya Köklü 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 individual Complainant Tony Provenzano is the president of the Complainant company Winston Wolfe Media Group, LLC, which is a financial service platform with its registered seat in the United States, which provides a network of lenders offering short-term personal loans of up to USD 5,000.00.

The Complainant Winston Wolfe Media Group, LLC is the owner the BILLSHAPPEN trademark, which is registered in the United States, No. 88307088, registered on September 24, 2019, inter alia for referral services for lenders to provide consumers with personal loans, as protected in class 35 (Annexes 5 and 6 to the Complaint).

The Complainant further operates its official website at “www.billshappen.com”.<sup>1</sup>

The Respondent is reportedly located in Thailand.

The disputed domain name was registered on February 13, 2024.

According to the screen captures taken at the time of filing the Complaint, the disputed domain name resolved to a website purportedly offering tips on getting personal loans, and repeatedly referring to the Complainant’s domain name <billshappen.com> and the loan options offered by the Complainant. The Panel notes that the website specifically mentions that: “[a]lthough you should never use Billshappen.com as a primary way to pay your bills due to the high interest rates, they can be a great help if you need money quickly and have no other options. Remember the tips in this article, so you can use payday loans wisely.”

At the time of the notification of the Complaint and of this Decision, the disputed domain name did not resolve to an active website anymore.

#### **5. Parties’ Contentions**

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

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

##### **B. Respondent**

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

---

<sup>1</sup>Noting in particular the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.8. In this regard, the Panel conducted its independent search through the search engine for the company’s history and field of business. By doing so, the Panel noticed that the Complainant operates its official website at the domain name “www.billshappen.com”.

## 6. Discussion and Findings

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights; and
- (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.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See section 4.3 of the [WIPO Overview 3.0](#).

For the evaluation of this case, the Panel has taken note of the [WIPO Overview 3.0](#), and, where appropriate, will decide consistent with the consensus views stated therein.

### 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 the BILLSHAPPEN trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the BILLSHAPPEN 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 terms and/or numbers, here "247", may bear on assessment of the second and third elements, the Panel finds the addition of "247" 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.

In the absence of a Response, the Respondent has particularly failed to demonstrate any of the other non-exclusive circumstances evidencing rights or legitimate interests under the Policy, paragraph 4(c) or other evidence of rights or legitimate interests in the disputed domain name.

According to the screen captures, the disputed domain name was being used to resolve to a website referring to the Complainant's activities and purportedly offering tips on getting personal loans from the Complainant. Those "tips" alleged by the Complainant to be "without accuracy and consent" may imply tarnishment to the Complainant's trademark. The Panel further notes that there were a number of hyperlinks on that website that are now inactive but may have been used to gather personal information from Internet users looking for the Complainant's services and not for any kind of legitimate bona fide offering of services, given the confusing similarity between the disputed domain name and the Complainant's official domain name and trademark. As it has been found by previous panels, where a domain name consists of a trademark plus an additional term, such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. The additional term or number here, "247" is commonly used in English to mean "all the time" which does nothing to diminish or contradict the impersonation effect of the disputed domain name but rather implies that the Complainant's loan lending activities operate continuously, contributing to the user confusion.

The repeated reference to the Complainant on the website also precludes any possible argument that may be raised by the Respondent that the disputed domain name would somehow be consisting merely dictionary terms or common phrases and is not intended to trade off the Complainant's trademark rights. [WIPO Overview 3.0](#), section 2.10.

The Panel concludes that the Respondent does not have rights or legitimate interests in the disputed domain name as panels have held that the use of a domain name for illegal activity, here, impersonation and potential phishing, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that the Respondent must have had the Complainant and its BILLSHAPPEN trademark in mind when registering the disputed domain name. It is obvious to the Panel that the Respondent has deliberately chosen the disputed domain name, which comprises the Complainant's BILLSHAPPEN trademark in its entirety, to target the Complainant and its financial networking services. Consequently, the Panel is convinced that the Respondent has registered the disputed domain name in bad faith.

As regards bad faith use, the website associated to the disputed domain name, purportedly offering tips on getting personal loans and likely attempting to gather personal information from Internet users, as well as the inherently misleading nature of the disputed domain name is, in view of the Panel, sufficient evidence that the Respondent intentionally tries to trade off the Complainant's trademark and attract Internet users to its website by creating a likelihood of confusion with the Complainant and its financial networking services provided under its BILLSHAPPEN trademark.

Panels have held that the use of a domain name for illegal activity, here impersonation and potential phishing, constitutes bad faith under the Policy.

The fact that the disputed domain name currently no longer resolves to an active website does not prevent a finding of 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 <billshappen247.com> be cancelled.

*/Kaya Köklü/*

**Kaya Köklü**

Sole Panelist

Date: June 7, 2024