

ADMINISTRATIVE PANEL DECISION

Purl NYC LLC dba Purl Soho v. Qing Bing
Case No. D2024-1714

1. The Parties

Complainant is Purl NYC LLC dba Purl Soho, United States of America (“USA”), represented by Keating Muething & Klekamp PLL, USA.

Respondent is Qing Bing, China.

2. The Domain Name and Registrar

The disputed domain name <purl-soho.com> 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 April 23, 2024. On April 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 25, 2024, the Registrar transmitted by email to the Center its verification response confirming that 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 Respondent of the Complaint, and the proceedings commenced on May 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 21, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on May 24, 2024.

The Center appointed Gabriel F. Leonardos as the sole panelist in this matter on June 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 by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

Complainant is Purl NYC LLC dba Purl Soho (“Purl Soho”) an American e-commerce founded in 2002 that sells knitting and craft supplies, including its own brand of hand-kitting yarns, design patterns, knitting and crochet tools.

Complainant owns a domain name including the mark PURL SOHO (<purlsoho.com>) in which Complainant promotes and offers its products.

Some examples of Complainant’s trademark registrations can be found below:

Registration No.	Trademark	Jurisdiction	International Class	Registration Date
5158960	PURL SOHO	USA	35	March 14, 2017
5207571	PURL SOHO	USA	41, 18, 28, 16, 26, 25, 24, 23	May 23, 2017

The disputed domain name was registered on January 3, 2024. According to the case files, it resolves to a copycat version of Complainant’s official website.

5. Parties’ Contentions

A. Complainant

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 confusingly similar to the registered trademarks PURL SOHO, since it fully incorporates Complainant’s trademarks PURL SOHO with the sole addition of a hyphen.

Therefore, according to Complainant, the disputed domain name is confusingly similar with Complainant’s trademark PURL SOHO, fulfilling paragraph 4(a)(i) of the Policy.

Moreover, Complainant states that neither Respondent, nor, upon information and belief, anyone affiliated with Respondent, is commonly known by the name “Purl Soho” and Respondent has not acquired any trademark or service mark rights in the name. Further, Complainant claims to not have authorized Respondent, or anyone acting in concert with or at the direction of Respondent, to use the PURL SOHO marks in the context of the disputed domain name or for any other reason. Complainant claims that Respondent is using the disputed domain name to redirect customers from Complainant to Respondent’s website falsely suggesting that Respondent is Complainant.

This way, Complainant states that no legitimate use of the disputed domain name could be reasonably claimed by Respondent, thus paragraph 4(a)(ii) of the Policy has been fulfilled.

Finally, Complainant states that Respondent intentionally attempts to attract for commercial gain, Internet users to Respondent’s website by creating a likelihood of confusion with Complainant’s trademarks as to the source, sponsorship, affiliation, or endorsement of a product or service on Respondent’s website or location.

Thus, according to Complainant, the requirements for the identification of a bad faith registration and use of the disputed domain name have been fulfilled, pursuant to paragraph 4(a)(iii) of the Policy.

Accordingly, Complainant requests transfer of the disputed domain name to Complainant.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

To succeed in a UDRP complaint, Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

- (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 proving these elements is upon Complainant.

Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the complaint, in the absence of exceptional circumstances, the panel's decision shall be based upon the complaint.

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds 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 trademarks is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of a hyphen within Complainant's trademark 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 trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The disputed domain name consists also of the generic Top-Level Domain ("gTLD") ".com". The applicable gTLD in a domain name, such as ".com" in this case, is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, 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 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 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.

The Panel notes that Complainant argues that Respondent is using the disputed domain name to redirect customers from Complainant to Respondent's website, impersonating Complainant. The Panel finds that Complainant sufficiently proves that Respondent's intent on diverting Internet users to the website fraudulently using trademarks and pictures of Complainant's products as supported by Annex 6 to the Complaint. Moreover, the construction of the disputed domain name by itself carries a risk of implied affiliation to Complainant, exacerbated by the impersonating content mentioned above, and as such, cannot constitute fair use.

Panels have held that the use of a domain name for illegal activity (e.g., impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Based on the available record, 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 Respondent has registered the disputed domain name that is confusingly similar to Complainant's trademark PURL SOHO - as explained above in Section 6.A - and merely adds a hyphen.

The Panel finds that it was duly demonstrated that Respondent was likely aware of Complainant's rights to the trademarks PURL SOHO at the time of the registration - as Complainant enclosed proof that the disputed domain name resolved to a website using Complainant's trademarks and product pictures aiming to divert Internet users (Annex 6 to the Complaint). Moreover, the use of the disputed domain name as a copycat version of Complainant's website exposes the likelihood of Respondent's knowledge of Complainant's trademark and a clear intent to take a free ride on Complainant's renown.

The Panel concludes the registration and use is in bad faith under paragraph 4(b) of the Policy as the use of the disputed domain name falls under paragraph 4(b)(iv) of the Policy as Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with Complainant's mark.

Panels have held that the use of a domain name for illegal activity (e.g., impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the disputed domain name to impersonate Complainant aiming to potentially obtain financial gain (Annex 6 to the Complaint) constitutes bad faith under the Policy.

The Panel finds that the circumstances of the present case allows a finding of bad faith in the registration and use of the disputed domain name, considering that (i) Respondent would likely obtain commercial gain by using a confusingly similar disputed domain name to Complainant's trademark; (ii) Complainant operating an almost identical domain name, such that Respondent most likely knew (or should have known) of its existence, taking advantage of the Internet user confusion caused by its use in the disputed domain name; and (iii) the use of the disputed domain name in order to divert customers to a copycat version of Complainant's website, possibly diverting Internet users and possibly obtaining financial gain.

Moreover, the Panel finds it relevant that Respondent has not provided any evidence of good faith registration or use, or otherwise participated in this dispute. Complainant has put forward serious claims regarding the apparent bad faith use of the disputed domain name that the Panel would expect any legitimate party would seek to refute.

Based on the available record, 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 <purl-soho.com> be transferred to Complainant.

/Gabriel F. Leonardos/

Gabriel F. Leonardos

Sole Panelist

Date: June 17, 2024