

ADMINISTRATIVE PANEL DECISION

Calvin Klein Trademark Trust, Calvin Klein Inc. v. hao wu
Case No. D2024-2362

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 hao wu, China.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 10, 2024. On June 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 11, 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 (See PrivacyGuardian.org) and contact information in the Complaint. The Center sent an email communication to the Complainants on June 12, 2024 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on June 13, 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 June 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 5, 2024.

The Center appointed Kiyoshi Tsuru as the sole panelist in this matter on July 9, 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.

3.1 Joint Complainants

The Complaint was filed by two Complainants against a single Respondent, both Complainants belonging to the same corporate group. Calvin Klein Trademark Trust (the “Complainant CK TM”) is the owner of the CALVIN KLEIN trademark registrations. Calvin Klein, Inc. (the “Complainant CK Inc.”) is the beneficial owner of said trademarks and holds multiple domain names which incorporate the CALVIN KLEIN brand. The Panel finds that the Complainants have a joint grievance against the Respondent, and that, under the circumstances of the case, it is therefore acceptable that they both be named as the Complainants in their Complaint and the present proceeding. The Complainant CK TM and the Complainant CK Inc. are herein collectively referred to as “the Complainants”, except as otherwise indicated.

4. Factual Background

The Complainants are two entities that belong to the Calvin Klein corporate group, a company specialized in the production, sale and licensing of men’s and women’s apparel, fragrances, and footwear, among other products.

The Complainant CK TM is the owner of several trademark registrations, including:

Trademark	Registration No.	Jurisdiction	Date of Registration	Goods or Services
CALVIN KLEIN Calvin Klein	1,492,382	United Kingdom	January 21, 1994	Class 25
CALVIN KLEIN Calvin Klein	617,381	European Union	January 29, 1999	Class 9 Class 25
CALVIN KLEIN	1,086,041	United States	February 21, 1978	Class 25
CALVIN KLEIN 	991,313	China	April 28, 1997	Class 25

The Complainant CK Inc. owns the domain names <calvinklein.com>, <calvinkleinbags.com>, <calvinkleinunderwear.com>, and <calvinkleinfashion.com>, among others, which resolve to the Complainants’ official websites.

The disputed domain name <calvinklein.monster> was registered on June 8, 2024. At the moment of writing of this decision, the disputed domain name resolves to an inactive website which contains the following text “The content of the page cannot be displayed”.

5. Parties’ Contentions

A. Complainants

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainants contend the following:

I. Identical or Confusingly Similar

That the Complainants' registration, use and promotion of the CALVIN KLEIN trademarks since 1968 establish their rights over said trademarks pursuant to the Policy.

That the disputed domain name incorporates the Complainants' CALVIN KLEIN trademarks in their entirety, with the addition of the generic Top-Level Domain ("gLTD") ".monster", which doesn't diminish the confusing similarity between the disputed domain name and the Complainants' CALVIN KLEIN trademarks (and cites *Bundl Technologies Private Limited v. Domains By Proxy, LLC / Shomprakash Sinha Roy*, WIPO Case No. [D2018-2166](#); and WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.11.). And that if the ".monster" gLTD was to be interpreted as a word to be appended to the trademark, such term increases confusion since it could be deemed as a description of the Complainant's market presence and product lines.

That the incorporation of the Complainants' CALVIN KLEIN trademarks in the disputed domain name carries a high risk of implied affiliation (and cites *Navasard Limited v. Nev Mews*, WIPO Case No. [D2019-2528](#)).

II. Rights or Legitimate Interests

That the Complainants' first use and registration of the CALVIN KLEIN trademarks predates any use that the Respondent may have made of the disputed domain name as a trade name, domain name, mark or common name, since the Respondent registered the disputed domain name more than 50 years after the date of first use of the CALVIN KLEIN trademarks. That the Complainants' domain names <calvinklein.com>, <calvinkleinfashion.com>, and others were registered and used way before the date of registration of the disputed domain name, which leads to infer that the Respondent was aware of the Complainants' domain names and websites associated thereto, when registering the disputed domain name.

That the Respondent is not affiliated with the Complainants in any way, since they have not authorized the Respondent to use and register the CALVIN KLEIN trademarks or to register any domain name including said trademarks. That, therefore, the Respondent has no proprietary rights to, or legitimate interests in the disputed domain name.

That the CALVIN KLEIN trademarks are well-known and famous (and cites *Calvin Klein Trademark Trust, Calvin Klein Inc. v. WhoisGuard, Inc. / Vladimir Pulek*, WIPO Case No. [D2020-3437](#); *Calvin Klein Trademark Trust and Calvin Klein Inc. v. 朱人杰 (Zhu renjie)*, WIPO Case No. [D2022-2591](#); *Calvin Klein Trademark Trust, and Calvin Klein, Inc. v. Serna Sabra*, WIPO Case No. [D2023-3200](#)), and that the Respondent's registration of the disputed domain name wholly incorporating the famous CALVIN KLEIN trademarks is not supported by legitimate interests.

That the Respondent does not have proprietary rights to, or legitimate interests in the CALVIN KLEIN trademarks, because the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services, or a legitimate noncommercial fair use.

That the Respondent does not have proprietary rights to, or legitimate interests in the CALVIN KLEIN trademarks, or the disputed domain name, since the Respondent is not commonly known by these names. That the information provided by the Registrar to the Center shows that the name of the Respondent is Hao Wu, and not Calvin Klein, or "calvinklein.monster".

That the Complainants have not authorized or licensed to the Respondent, nor anyone else, the use of the CALVIN KLEIN trademarks, in connection to the registration of the disputed domain name.

III. Registered and Used in Bad Faith

That the Respondent's use of the disputed domain name is diverting the Complainants' customers or potential customers to an inactive website, and that the Complainants do not have control over the registration of disputed domain name that incorporates the CALVIN KLEIN trademarks.

That there is no plausible actual or contemplated use of the disputed domain name that would not be illegitimate and therefore an infringement of the Complainants' rights.

That the Respondent's passive use of the disputed domain name amounts to bad faith (citing *Société pour l'Oeuvre le Mémoire d'Antoine de Saint Exupéry, Succession Saint Exupéry d'Agay v. Perlegos Properties* WIPO Case No. [D2005-1085](#)).

That the registration of the disputed domain name (which incorporates the CALVIN KLEIN famous trademarks) by an unaffiliated entity such as the Respondent creates a presumption of bad faith (citing *Carrefour SA v. 伍誉 (Wu Yu)*, WIPO Case No. [DCO2022-0023](#); *Vente-privee.com v. lei lei*, WIPO Case No. [DCC2023-0010](#); and *Calvin Klein Trademark Trust and Calvin Klein Inc. v. Client Care, Web Commerce Communications Limited*, WIPO Case No. [D2022-2697](#)).

The Complainants cited *Calvin Klein Inc. and Calvin Klein Trademark Trust v. 颜文君 (Wen Jun Yan)*, WIPO Case No. [D2021-1151](#), to argue that no good faith can be found regarding the use of a domain name which incorporates the CALVIN KLEIN trademarks.

That the Respondent registered the disputed domain name to prevent the Complainants from registering it.

That the Respondent's use of the disputed domain name to attract Internet users creates a likelihood of confusion with the CALVIN KLEIN trademarks.

That a reverse Whois search conducted by the Complainants has revealed that the Respondent has registered under his name (Hao Wu) more than a thousand domain names, including domain names incorporating well-known and famous trademarks such as Coach, Google, or Kindle, among others.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy sets out the three requirements that the Complainants must prove in order to successfully request remedies:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark to which the Complainants have rights;
- (ii) that the Respondent has no rights or legitimate interests in connection to the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

Given the Respondent's default and therefore, failure to specifically address the case merits as they relate to the three UDRP elements, the Panel may decide this proceeding based on the Complainant's undisputed factual allegations under paragraphs 5(f), 14(a), and 15(a) of the Rules (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#); *Encyclopaedia Britannica, Inc. v. null John Zuccarini, Country Walk*, WIPO Case No. [D2002-0487](#); see also [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 the Complainants' trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant CK TM has shown rights in respect of the CALVIN KLEIN trademarks. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the entirety of the Complainants' CALVIN KLEIN trademarks are reproduced within the disputed domain name. The gTLD ".monster" can be disregarded under the first element. [WIPO Overview 3.0](#), section 1.11.1. Accordingly, the disputed domain name is identical to said marks 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 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 Complainants have established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainants' 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.

Furthermore, the Panel considers that the composition of the disputed domain name carries a high risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Therefore, 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.

The Complainant CK TM has ascertained its rights over its CALVIN KLEIN trademarks. The dates of registration of the CALVIN KLEIN trademarks significantly precede the date of registration of the disputed domain name. The Panel agrees with decisions rendered by previous panels in the sense that the CALVIN KLEIN trademarks are famous (see *Calvin Klein Trademark Trust, Calvin Klein Inc. v. WhoisGuard, Inc. / Vladimir Pulek, supra*; *Calvin Klein Trademark Trust and Calvin Klein Inc. v. 朱人杰 (Zhu renjie), supra*; *Calvin Klein Trademark Trust, and Calvin Klein, Inc. v. Serna Sabra, supra*).

The Respondent's bad faith registration is evidenced by the fact that (1) the CALVIN KLEIN trademarks are famous worldwide; (2) the disputed domain name is confusingly similar to the CALVIN KLEIN trademarks, as it incorporates them in their entirety, and is also similar to the Complainants' domain names; (3) the Complainants have submitted evidence of use and registration of their CALVIN KLEIN trademarks many decades prior to the date of registration of the disputed domain name; (4) the Respondent is in default and has not shown any rights to or legitimate interests in the disputed domain name; and (5) the Respondent has a record of registering domain names that incorporate third party trademarks, including marks that are well-known or famous, such as Coach, Google, or Kindle. Therefore, it is natural to infer that the Respondent knew the Complainants when he registered the disputed domain names, and that he has opportunistically targeted the said Complainants, their trademarks, and their business (see section 3.2.1 of the [WIPO Overview 3.0](#); see also *L'Oréal v. Contact Privacy Inc. Customer 0149511181 / Jerry Peter*, WIPO Case No. [D2018-1937](#); and *Gilead Sciences Ireland UC / Gilead Sciences, Inc. v. Domain Maybe For Sale c/o Dynadot*, WIPO Case No. [D2019-0980](#)). On the uncontroverted evidence, the Panel finds that the Respondent registered the disputed domain name in bad faith.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing his identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3. Having reviewed the record, the Panel notes the famous nature of the Complainants' CALVIN KLEIN trademarks, and the composition of the disputed domain name, the Respondent's refusal of the delivery of the Written Notice by the courier service, and the Respondent's failure to submit a response, and thus finds that under the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under 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 <calvinklein.monster> be transferred to the Complainants.

/Kiyoshi Tsuru/

Kiyoshi Tsuru

Sole Panelist

Date: July 23, 2024