

## **ADMINISTRATIVE PANEL DECISION**

Caroll International v. Gottlieb Nahormek  
Case No. D2024-2700

### **1. The Parties**

The Complainant is Caroll International, France, represented by MIIP MADE IN IP, France.

The Respondent is Gottlieb Nahormek, United States of America (“US”).

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 2, 2024. On July 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 2, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 4, 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 August 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 August 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 6, 2024.

The Center appointed Rebecca Slater as the sole panelist in this matter on September 18, 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 Complainant is a French company that sells women's clothing. The Complainant was created in 1963. The Complainant's products are sold in over 500 stores worldwide and online.

The Complainant has a portfolio of registrations for the CAROLL word mark, including French Trade Mark Registration No. 1233265 (registered April 15, 1983), European Union Trade Mark Registration No. 009892431 (registered September 16, 2011) and International Trade Mark Registration No. 580598 (registered December 17, 1991) (the "Trade Mark"). The Complainant also holds a number of registrations for the CAROLL PARIS word mark.

The Complainant is also the registrant of several domain names incorporating the Trade Mark, including the <caroll.com> domain name, registered in 1997.

The Respondent is an individual named Gottlieb Nahormek apparently located in the US. The Respondent did not submit a formal response, and consequently little information is known about the Respondent.

The Respondent registered the disputed domain name on June 17, 2024.

The disputed domain name currently redirects Internet users to a website which features the Trade Mark and offers women's clothing for sale at discounted prices.

#### **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:

- The disputed domain name is confusingly similar to the Trade Mark. The disputed domain name comprises the Trade Mark in its entirety. The addition of the letters "wl" does not prevent a finding of confusing similarity.
- The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not affiliated with the Complainant in any way and has not been authorized by the Complainant to use the Trade Mark as a domain name or to sell clothing. The dispute domain name redirects to a fraudulent website which features the Trade Mark and offers women's clothing for sale at bargain prices.
- The disputed domain name was registered and is being used in bad faith by the Respondent. The Trade Mark is well known, having been in use for over 50 years. The Respondent used a privacy service to hide its identity. The disputed domain name is being used to operate a fraudulent website. The Respondent is intentionally attempting to take advantage of the Trade Mark to create confusion and generate profit.

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

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

## 6. Discussion and Findings

To succeed, the Complainant must demonstrate that all the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- the disputed domain name has been registered and is being used in bad faith.

The onus of providing these elements is on the Complainant.

### 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 entirety of the Trade Mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of the letters "wl" may bear on assessment of the second and third elements, the Panel finds the addition of these letters does not prevent a finding of confusing similarity between the disputed domain name and the Trade 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.

The Complainant has not authorized the Respondent to use the Trade Mark and there is no evidence that the Respondent has ever been known by the disputed domain name. Additionally, the Respondent is not an authorized dealer of the Complainant and has never had any form of business relationship with the Complainant.

Panels have held that the use of a domain name for illegal activity (here, claimed sale of articles at discounted prices and impersonation/passing off) 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.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy.

Under paragraph 4(b)(iv) of the Policy, there is evidence of registration and use of the disputed domain name in bad faith where a Respondent has used the disputed domain name to intentionally attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trade marks as to the source, sponsorship, affiliation or endorsement of the website.

The Panel finds it highly unlikely that the disputed domain name was registered without knowledge of the Complainant and the Trade Mark, given the reputation of the Complainant. The Respondent's goal in registering and using the disputed domain name appears to be to attract Internet users for potential gain. This finding is reinforced by the Respondent's use of the website at the disputed domain name to host a website offering items branded with the Trade Mark at discounted prices.

Panels have held that the use of a domain name for illegal activity (here, claimed sale of articles at discounted prices and impersonation/passing off) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

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 <carollwl.com> be transferred to the Complainant.

*/Rebecca Slater/*

**Rebecca Slater**

Sole Panelist

Date: October 2, 2024