

## ADMINISTRATIVE PANEL DECISION

Clarins v. as qwe  
Case No. D2024-2741

### 1. The Parties

The Complainant is Clarins, France, represented by Tmark Conseils, France.

The Respondent is as qwe, China.

### 2. The Domain Name and Registrar

The disputed domain name <clarins-cosmetics.shop> (the “Disputed Domain Name”) is registered with Dynadot Inc (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 4, 2024. On July 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 5, 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 (Identity undisclosed) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 8, 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 July 12, 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 July 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 5, 2024.

The Center appointed Edward C. Chiasson K.C. as the sole panelist in this matter on August 8, 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 registered in the French commercial register of Paris under No. 330 589 75. It is one of the major businesses in the field of cosmetics and make-up products and has been doing business in France for more than 60 years, where it is well-known. The Complainant is well-established worldwide.

The Complainant owns many trademarks in different jurisdictions, including the following CLARINS trademarks having effect in France, European Union, United Kingdom, Canada, Thailand, and United States of America ("United States" or "USA").

- French trademark registration CLARINS No. 1637194, registered on January 7, 1991, and covering notably cosmetics in class 3 and beauty care services in class 44.
- European Union Trade Mark CLARINS No. 005394283, registered on October 10, 2010, and covering notably cosmetics in class 3 and cosmetic and beauty care services in class 44.
- United Kingdom trademark CLARINS No. UK00905394283 registered on October 5, 2010, and covering notably cosmetics goods in class 3 and cosmetic and beauty care services in class 44.
- Canadian Registration CLARINS No. TMA645123, registered on July 29, 2005, and covering cosmetic goods in class 3.
- United States Registration CLARINS No. 1574179, registered on January 2, 1990, and covering cosmetics and make-up goods in class 3;
- United States Registration CLARINS No. 0935002 registered on May 30, 1972, and covering cosmetics and make-up goods in class 3.
- Thai trademark registration CLARINS No. Kor76352 registered on March 24, 1988, and covering cosmetics and make-up goods in class 3.

The above trademarks, which predate the registration of the Disputed Domain Name, registered on March 13, 2024, are in force and are owned by the Complainant.

At the time of the filing of the Complaint, the Disputed Domain Name was being used to resolve to a website impersonating the Complainant and offering CLARINS' cosmetic products under the Complainant's trademark. The website is accessible by mobile phone and uses a similar visual layout as the one of the Complainant's official websites.

#### **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.

The Complainant asserts that the Disputed Domain Name is confusingly similar to a trademark in which it has rights.

The Complainant owns many trademarks for CLARINS and is well known in the worldwide cosmetics business.

The Disputed Domain Name reproduces the Complainant's trademark CLARINS with the addition of the descriptive element "cosmetics" which refers to the nature of the products which are cosmetics.

Numerous UDRP decisions have held that when a domain name wholly incorporates a Complainant's registered trademark, it is sufficient to establish confusing similarity for purpose of the Policy (see, *Magnum Piering, Inc. v. The Mudjacks and Garwood S. Wilson, Sr.*, WIPO Case No. [D2000-1525](#); *Eauto, L.L.C. v. Triple S. Auto Parts d/b/a Kung Fu Yea Enterprises, Inc.*, WIPO Case No. [D2000-0047](#); *Bayerische Motoren Werke AG v. bmwcar.com*, WIPO Case No. [D2002-0615](#)).

The Complainant states that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

It is sufficient for the Complainant to show a prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name in order to shift the burden of proof to the Respondent.

The Respondent is not authorized by the Complainant and is using the Disputed Domain Name to mislead Internet users into thinking the Respondent is associated with the Complainant. The Respondent is offering the Complainant's products for sale at a reduced price.

The Complaint contends that the Disputed Domain Name was registered and is being used in bad faith.

The Disputed Domain Name was created on March 13, 2024, long after The Complainant was extensively using its trademark CLARINS worldwide.

The Complainant's trademark and business were already well known at the time of registration of the Disputed Domain Name. The Respondent replicated much of the Complainant's advertising material. The Respondent had no legitimate reason to register the Disputed Domain Name except, to act in bad faith by taking unfair advantage of the confusion created by its fraudulent registration.

The Complainant also cites a recent UDRP case *Clarins v. Do Than Luan*, WIPO Case No. [D2023-3103](#), regarding the domain name <clarinssusa.com>, the panel ordered the transfer the domain name to the Complainant considering that the website attached to the domain name replicated the Complainant's official website and reproduced the Complainant's official trademark and logo.

Lastly, the Complainant emphasizes that most recently, numerous domain names composed of the trademark CLARINS with the extension ".shop" have been registered and used for knock-off version of the Complainant's official website. The Complainant filed UDRP actions and in each case, the bad faith of the domain name registrant has been recognized.

## **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 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

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 Panel notes the composition of the Disputed Domain Name and that such was being used to resolve to a website impersonating the Complainant and offering for sale purportedly products from the Complainant at discounted prices. Previous panels have held that the use of a domain name for illegal activity, here impersonation/passing off, can never confer rights or legitimate interests on a respondent. Moreover, the nature of the Disputed Domain Name carries a risk of implied affiliation. [WIPO Overview 3.0](#), sections 2.13.1 and 2.5.1.

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.

The Panel notes that the composition and use of the Disputed Domain Name indicate the Respondent knew of the Complainant’s trademark, and reputation and position in the cosmetics industry, at the time of registration of the Disputed Domain Name. In this regard, the Disputed Domain Name included both the Complainant’s trademark and the word “cosmetics”, a direct reference to the Complainant’s area of activity. The Respondent used the Disputed Domain Name to confuse Internet users that it was or was affiliated with the Complainant and appeared to offer products bearing the Complainant’s trademark at significant discounts. Such use amounts to the Respondent intentionally attempting to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s trademark, and constitutes clear evidence of bad faith as set out in paragraph 4(b)(iv) of the Policy.

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 that the Disputed Domain Name was registered and is being used in 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 <clarins-cosmetics.shop> be transferred to the Complainant.

*/Edward C. Chiasson K.C./*

**Edward C. Chiasson K.C.**

Sole Panelist

Date: August 21, 2024