

ADMINISTRATIVE PANEL DECISION

CLARINS v. zahir sanlisoy
Case No. D2024-2866

1. The Parties

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

The Respondent is zahir sanlisoy, Türkiye.

2. The Domain Name and Registrar

The disputed domain name <clarinswecare.com> 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 15, 2024. On July 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 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 (REDACTED FOR PRIVACY, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 16, 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 18, 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 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 9, 2024.

The Center appointed Delia-Mihaela Belciu as the sole panelist in this matter on August 12, 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 one of the major actors in the field of cosmetics and make-up products. The Complainant has been doing business in France for more than 60 years where it is well-known, being also well-established worldwide.

The Complainant owns numerous trademark registrations incorporating the mark CLARINS worldwide, among which:

- the French trademark No. 1637194 for CLARINS, registered on June 14, 1991;
- the French trademark No. 5023861 for CLARINS WE CARE, registered on May 17, 2024;
- the European Union Trade Mark No. 005394283 for CLARINS, registered on October 5, 2010;
- the United States Registration No. 73746658 or CLARINS, registered on January 2, 1990.

Moreover, the denomination CLARINS constitutes the registered company name of the Complainant, and the domain name <clarins.com>, registered since March 16, 1997, is being used internationally by the Complainant, including in the United States of America, where the Complainant also operates the domain name <clarinsusa.com>, registered since November 12, 1997.

The disputed domain name was registered on June 20, 2024, and at the time of filing the Complaint, the disputed domain name redirected Internet users to a webpage where the disputed domain name was being offered for sale.

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:

- (i) the disputed domain name is identical and/or confusingly similar to its CLARINS and CLARINS WE CARE trademarks, as it contains these trademarks in their entirety;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name for a number of reasons, among which that, (1) the Complainant has prior rights over the trademark CLARINS, (2) the Respondent has no rights nor any activity under the trademark CLARINS, (3) the Complainant has never authorised or licensed the Respondent to make use of its trademark within the disputed domain name;
- (iii) the disputed domain name was registered and is being used in bad faith for a number of reasons, among which that, (1) the Respondent was aware of the Complainant's prior rights over the trademark CLARINS and of its wide use of this trademark, (2) the Respondent has registered the disputed domain name for the sole purpose of selling, renting, or transferring it at a very expensive price whereas it reproduces identically the Complainant's prior well-known trademarks.

B. Respondent

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

6. Discussion and Findings

In order for the Complainant to succeed, such must prove, according to paragraph 4(a) of the Policy, that:

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

In case all three elements above have been fulfilled, the Panel is able to grant the remedy requested by the Complainant. Thus, the Panel will deal with each of the requirements in turn.

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 Panel finds that the entirety of the CLARINS and CLARINS WE CARE trademarks are reproduced within the disputed domain name. Accordingly, the disputed domain name is identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

In what concerns the addition of the generic Top-Level Domain ("gTLD") ".com" in relation to the disputed domain name, such is viewed as a standard registration requirement, and is typically disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

The Panel therefore finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

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 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.

Based on the available evidence, the Respondent does not have the Complainant's authorization to register or use the disputed domain name.

The Respondent does not appear to be commonly known by the disputed domain name and does not appear to have acquired any trademark rights in the disputed domain name.

Moreover, the Respondent uses the disputed domain name to redirect Internet users to a webpage where the disputed domain name is being offered for sale. Nothing is on record which would show that the Respondent has made a legitimate noncommercial or fair use of the disputed domain name or that the Respondent has any rights or legitimate interests in the disputed domain name.

The Panel also notes that the disputed domain name carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

All the above does not amount to a bona fide offering of goods or services, or to a legitimate noncommercial or fair use of the disputed domain name.

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 the Complainant's rights in the CLARINS and CLARINS WE CARE trademarks predate the registration date of the disputed domain name.

The CLARINS trademark enjoys of a well-known character, recognized by earlier UDRP panels as well (see *Clarins v. Privacy Service Provided by Withheld for Privacy ehf / Do Thanh Luan, Lilla Group*, WIPO Case No. [D2022-1178](#), *Clarins v. rene yomgne*, WIPO Case No. [D2019-2631](#), and *CLARINS v. DO THANH LUAN*, WIPO Case No. [D2023-3103](#)).

In light of the well-known character of the CLARINS trademark, the Panel finds that it is not conceivable that the Respondent chose the disputed domain name without knowledge of the Complainant's CLARINS trademark and of its activity, especially considering the addition of the expression "wecare" in the disputed domain name corresponding to another trademark of the Complainant, which supports a finding of bad faith registration. [WIPO Overview 3.0](#), section 3.2.2.

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 the composition of the disputed domain name, which comprises in their entirety the Complainant's CLARINS and CLARINS WE CARE trademarks, and the use of the disputed domain name in relation to a webpage where the disputed domain name is being offered for sale for USD 2,850, an amount most likely above the out-of-pocket expenses directly related to the disputed domain name, which support a finding of bad faith.

Based on the available record, 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 <clarinswecare.com> be transferred to the Complainant.

/Delia-Mihaela Belciu/

Delia-Mihaela Belciu

Sole Panelist

Date: August 26, 2024