

ADMINISTRATIVE PANEL DECISION

Clarins v. Gholam Jelani
Case No. D2024-2903

1. The Parties

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

The Respondent is Gholam Jelani, United States of America ("United States").

2. The Domain Names and Registrar

The disputed domain names <courtinclarins.com> and <virginiécourtinclarins.com> are registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 16, 2024. On July 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name <courtinclarins.com>. 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 <courtinclarins.com> which differed from the named Respondent (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 18, 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 23, 2024, in which it also requested to add the disputed domain name <virginiécourtinclarins.com> from another case to the current proceeding. On July 26, 2023, the Center requested the Registrar to confirm its registrar verification of July 16, 2024 in relation to the disputed domain name <virginiécourtinclarins.com> remained accurate. On the same day, the Registrar confirmed that the Respondent is listed as the registrant for the disputed domain name <virginiécourtinclarins.com> and provided contact information.

The Respondent sent email communications to the Center on July 18, and July 22, 2024 expressing its willingness to solve the disputed. On July 19, 2023, the Center informed the Parties that if they wished to explore settlement options, the Complainant should submit a request for suspension. The Complainant did not request to suspend the proceeding.

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 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 18, 2024. On August 19, 2024, the Center informed the Parties that it would proceed with panel appointment.

The Center appointed Reyes Campello Estebaranz as the sole panelist in this matter on August 26, 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, based in France, is a major international company in the cosmetics and make-up sector and has operated for more than 60 years under the brand CLARINS. The name “Clarins” constitutes also the Complainant’s registered company name, and comes from the name of its founder, Jacques Courtin-Clarins. The Complainant operates in over 150 countries and is available at high-end department stores and selected retailers, as well as online through numerous online stores owned by the Complainant, authorized distributors, or affiliated companies.

The Complainant owns numerous trademark registrations internationally for its CLARINS brand, including French Trademark Registration No. 1637194, registered on June 14, 1991; European Union Trade Mark Registration No. 005394283, registered on October 5, 2010; and United States Trademark Registration No. 73746658, registered on January 2, 1990 (collectively hereinafter referred as the “CLARINS mark”). Prior decisions under the Policy have recognized the international reputation of the CLARINS mark.¹

The Complainant further owns various domain names corresponding to its CLARINS mark, including <clarins.com> (registered on March 16, 1997), which resolves to its international corporate website and online store, and <clarinsusa.com> (registered on November 12, 1997), which resolves to a specific website for the United States market.

The disputed domain names were registered on September 17, 2023, and they resolve to the GoDaddy landing pages indicating that the disputed domain names are available for sale and include contact forms (such as telephone numbers and emails) to be used for getting 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 names.

¹ See, e.g., *Clarins v. Privacy Service Provided by Withheld for Privacy ehf / Do Thanh Luan*, WIPO Case No. [D2022-1322](#); *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. Andre Schneider/ DomCollect AG*, WIPO Case No. [D2014-0595](#).

Notably, the Complainant contends the disputed domain names are confusingly similar to the CLARINS mark, as they reproduce the entirety of this trademark, with additional terms that refer to the patronym of the family that founded and owns the company, the name “Courtin”, or the complete name of one of its general directors, “Viginie Courtin”.

The Complainant further contends the Respondent has no rights or legitimate interests in respect of the disputed domain names. The name “Clarins” is not a dictionary word, but a family patronym, and the Respondent is not known by this name. The Complainant has never licensed or otherwise authorized the Respondent to use the CLARINS mark, and the Respondent is not making a bona fide offering of goods or services or any fair use of the disputed domain names.

The Complainant alleges the disputed domain names were registered and are being used in bad faith. Due to the worldwide extensive use and reputation of the CLARINS mark, and the Complainant’s long-standing worldwide operating website at “www.clarins.com”, it is not possible to conceive the Respondent could have ignored the existence of the Complainant’s trademark and legitimately registered the disputed domain names. The inclusion in the disputed domain names of the surname or the complete name of one of the Complainant’s directors corroborates the Respondent’s bad faith. The Respondent registered the disputed domain names for the sole purpose of selling, renting or transferring them at an expensive price to the Complainant or one of its competitors. Email exchanges with the broker of the disputed domain names at Godaddy’s platform proves the disputed domain name <courtinclarins.com> is offered for sale at USD 3,550, and the disputed domain name <virginiecourtinclarins.com> at USD 3,750.

B. Respondent

The Respondent did not formally reply to the Complainant’s contentions.

In communications to the Center dated July 18, and July 22, 2024, the Respondent indicated that he would be willing to cancel the disputed domain name <courtinclarins.com> or “release it to the rightful owner”. However, the Respondent did not mention the disputed domain name <virginiecourtinclarins.com>, which was added to the proceeding on July 26, 2024.

6. Discussion and Findings

The Complainant has made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material and allegations, and performing some limited independent research under the general powers of the Panel articulated, inter alia, in paragraph 10 of the Rules.

Preliminary issue: Respondent’s Consent

In cases where the respondent has given its consent on the record to the transfer (or cancellation) remedy sought by the complainant, many panels will order the requested remedy solely on the basis of such consent. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 4.10.

The Panel notes the Respondent gave his unilateral consent for the cancellation or transfer of one of the disputed domain names <courtinclarins.com> to the Complainant; however, after the addition of the disputed domain name <virginiecourtinclarins.com> to the proceeding, he did not contact again the Center to extent his consent to this disputed domain name. Therefore, the Panel finds there is ambiguity as to the scope of the Respondent’s consent; it cannot be clearly considered as extended to both disputed domain names.

The Panel further finds it important to discuss the Respondent's bad faith conduct, as, while consenting to cancel or transfer one of the disputed domain names, the Respondent expressly disclaimed any bad faith indicating in his first communication dated July 18, 20024, "[...] I only registered this domain name not knowing that it may be disputed for whatever reason. I have not used or abused this Domain name and never sold it and never benefited from it [...]".

Therefore, the Panel finds it appropriate to proceed to a decision on the merits.

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 names. [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 the mark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The addition of other terms, here, "courtin" or "virginie courtin", which may bear on assessment of the second and third elements, does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Therefore, 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 names. 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 names such as those enumerated in the Policy or otherwise.

The Panel notes that the Respondent's name, revealed by the Registrar verification, shares no similarity with the disputed domain names.

The Panel further notes that the additional terms included in the disputed domain names, "courtin" and "virginie courtin", refer to the family that owns and directs the Complainant's business and the name of the Complainant's managing director respectively. Therefore, the Panel finds the composition of the disputed domain names indicates targeting of the Complainant, and of its reputed CLARINS mark, and generates

confusion with the Complainant, its trademark, and its business. The disputed domain names give the impression of being owned by or referring to the Complainant or its business. [WIPO Overview 3.0](#), section 2.5.1.

The Panel further notes that, according to the record, the disputed domain names resolve to landing pages from GoDaddy that indicate the disputed domain names are available for sale. Therefore, nothing in the record indicates that the disputed domain names are being used in connection with any bona fide offering of goods or services or any legitimate noncommercial fair use.

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 the CLARINS mark is internationally used, and is distinctive for the products in the field of cosmetics and make-up, and widely known and reputed. Prior decisions under the Policy have recognized the international reputation of the CLARINS mark.²

The Panel, under its general powers, has further corroborated that any search over the Internet for the term “clarins” would reveal the Complainant and its trademark. The Panel further notes nothing in the record indicates the Respondent has rights or legitimate interests in respect of the disputed domain names, and the disputed domain names share no similarities with the Respondent’s name. The Panel thus finds that the Respondent likely knew of the Complainant and its trademark and deliberately registered the disputed domain names in bad faith.

The Panel further considers the nature and composition of the disputed domain names, which incorporate the reputed CLARINS mark in its entirety, with the addition of other terms that correspond to the family name of the Complainant’s founder and the name of the Complainant’s managing director respectively, reflects the Respondent’s intention to target the Complainant and its trademark and to generate confusion and create misleading disputed domain names. [WIPO Overview 3.0](#), section 3.2.1.

The Panel considers the circumstances of this case indicate the Respondent’s registered the disputed domain names primarily to sell them to the Complainant or one of its competitors for valuable consideration in excess of the registration costs, which constitutes bad faith according to paragraph 4 (b)(i) of the Policy. In this respect, the Panel takes into account, in particular: (i) the reputation of the CLARINS mark and the Respondent’s likely knowledge of this mark; (ii) the nature and composition of the disputed domain names as discussed above; (iii) the lack of a formal response; and (iv) the Respondent’s consent to cancel or transfer one of the disputed domain names. [WIPO Overview 3.0](#), sections 3.1.1.

Accordingly, based on the evidence presented, the Panel finds the Respondent registered and is using the disputed domain names in bad faith.

Therefore, the Complainant has established the third element of the Policy.

² See footnote number 1.

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 names <courtinclarins.com> and <viriniocourtinclarins.com> be transferred to the Complainant.

/Reyes Campello Estebarez/

Reyes Campello Estebarez

Sole Panelist

Date: September 7, 2024