

## **ADMINISTRATIVE PANEL DECISION**

Gourmet House UK Limited v. Edward Gant, Onyx Group International Ltd  
Case No. D2024-3117

### **1. The Parties**

The Complainant is Gourmet House UK Limited, United Kingdom, represented by Brandsmiths SL Limited, United Kingdom.

The Respondent is Edward Gant, Onyx Group International Ltd, United Kingdom.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 30, 2024. On July 31, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 1, 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 (Domains by Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 2, 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 6, 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 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 12, 2024. The Respondent sent an email communication to the Center on September 3, 2024, via an email address other than that disclosed by the Registrar. The Center sent an email regarding Commencement of Panel Appointment Process to the Parties on September 13, 2024.

The Center appointed Jane Seager as the sole panelist in this matter on September 23, 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**

Established in 2010, the Complainant is a company incorporated in and under the laws of England and Wales. The Complainant operates a luxury delicatessen business, offering premium and fine foods and products, such as caviar, seafood, alcoholic beverages, saffron, truffles, and flowers. The Complainant conducts its business via its websites “www.gourmethousedeli.com” and “www.gourmethouse.com”. The Complainant also operates bars in a number of cities including London, Dubai, Lisbon, Los Angeles, and Hong Kong, China.

For use in connection with its food and beverage business, the Complainant has registered a number of trademarks, including:

- United Kingdom Trademark Registration No. UK00916907107, GOURMET HOUSE CAVIAR (figurative), registered on November 14, 2017; and
- European Union Trade Mark No. 016907107, GOURMET HOUSE CAVIAR (figurative), registered on November 14, 2017.

The disputed domain name was registered on August 14, 2023. At the time of submission of the Complaint, the disputed domain name redirected to “www.azurecaviar.com”, a website offering for sale caviar products. At the time of this decision, the disputed domain name no longer resolves to an active web page.

#### **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 registered and unregistered rights in the trademark GOURMET HOUSE CAVIAR. The Complainant submits that the disputed domain name is identical or confusingly similar to its marks.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant notes that the disputed domain name redirects to a website offering goods in competition with those offered by the Complainant. The Complainant submits that the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services, nor is the Respondent commonly known by the disputed domain name, nor is the Respondent making any legitimate noncommercial or fair use of the disputed domain name.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. The Complainant notes that the disputed domain name is identical or highly similar to the Complainant’s trademarks, and that it is being used to redirect to a website offering competing goods, thereby using the Complainant’s reputation for the Respondent’s own commercial gain.

The Complainant requests transfer of the disputed domain name.

## **B. Respondent**

The Respondent sent a single informal email communication to the Center, which stated:

"[...] I am writing in response to your recent communication regarding the dispute on the domain name <gourmethousecaviar.com>. Case No. [D2024-3117](#)."

After careful consideration of your complaint, we have decided to proceed with the cancellation of the domain name, effective immediately. We apologize for any inconvenience this may have caused.

Please let us know if you require any further assistance or have additional questions. [...]."

While the email was received from an email address other than that disclosed by the Registrar for the Respondent, the email clearly acknowledged ownership and control over the disputed domain name and was signed by the Respondent, "Edward Gant".

## **6. Discussion and Findings**

### **6.1. Identity of the Respondent**

The Complaint was filed naming both the underlying registrant "Edward Gant, Onyx Group International Ltd" and "Chena Limited" as the Respondent. The Complainant stated:

"WIPO has disclosed the true details of the Registrant as Edward Gant. However, on the basis the Domain redirects to [www.azurecaviar.com](#) which we believe to be the 'Respondents' Website' and no other trade marks for AZURE CAVIAR were identified other than those owned by Chena Limited, this Complaint is also directed to the owners of the AZURE CAVIAR Trade Marks."

Paragraph 1 of the Rules defines "Respondent" as:

"Respondent means the holder of a domain-name registration against which a complaint is initiated."

The Registrar has disclosed the registrant of record as "Edward Gant, Onyx Group International Ltd". The Panel notes that the Respondent's communication of September 3, 2024, was signed "Edward Gant", with "Onyx Group International" appearing in the email header. The Panel considers that the Complaint has been correctly filed identifying the Respondent as "Edward Gant, Onyx Group International Ltd". All references to the Respondent throughout this decision are intended to identify "Edward Gant, Onyx Group International Ltd".

### **6.2. The Respondent's Consent to Remedy**

Where parties to a UDRP proceeding have not been able to settle their dispute prior to the issuance of a panel decision using the "standard settlement process" described in paragraph 17 of the Rules, but where the respondent has nevertheless given its consent on the record to the transfer remedy sought by the complainant, many panels will order the requested remedy solely on the basis of such consent. In such cases, the panel gives effect to an understood party agreement as to the disposition of their case (whether by virtue of deemed admission, or on a no-fault basis).

In some cases, despite such respondent consent, a panel may in its discretion still find it appropriate to proceed to a substantive decision on the merits. Scenarios in which a panel may find it appropriate to do so include (i) where while consenting to the requested remedy the respondent has expressly disclaimed any bad faith, or (ii) where there is ambiguity as to the scope of the respondent's consent. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 4.10.

In the present case, the Panel notes that the Respondent offered to cancel the disputed domain name rather than transfer it to the Complainant, and that the Complainant did not request suspension of the proceedings in order to explore settlement options with the Respondent. In the surrounding circumstances, the Panel considers it appropriate to proceed to a decision on the merits.

### **6.3. Substantive Matters**

In order to prevail, a Complainant must demonstrate on the balance of probabilities that it has satisfied the requirements of paragraph 4(a) of the Policy:

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

#### **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 3.0](#), section 1.7.

Panel finds that the Complainant has established figurative trademark comprising the textual elements GOURMET HOUSE CAVIAR. Panel assessment of identity or confusing similarity involves comparing the (alpha-numeric) domain name and the textual components of the relevant mark. To the extent that design (or figurative/stylized) elements would be incapable of representation in domain names, these elements are largely disregarded for purposes of assessing identity or confusing similarity under the first element. [WIPO Overview 3.0](#), section 1.10.

The disputed domain name comprises the textual elements of the Complainant's GOURMET HOUSE CAVIAR trademark in their entirety. The Complainant's trademark is immediately recognizable in the disputed domain name.

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.

There appears to be no prior business relationship between the Parties. The Complainant has not granted any license to the Respondent for use of its trademarks in a domain name or otherwise. As noted above, the disputed domain name has been used to redirect to a website selling competing caviar products. The Panel finds that redirection of Internet users to the website of a competitor does not amount to use of the disputed domain name in connection with a bona fide offering of goods or services pursuant to paragraph 4(c)(i) of the Policy.

The Respondent's name does not bear any resemblance to the disputed domain name. There is no evidence of the Respondent having acquired any trademark rights for "Gourmet House Caviar". The Panel finds that the Respondent is not commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy.

The Respondent's use of the disputed domain name, as described above, is commercial in nature. The Respondent has not made any legitimate noncommercial or fair use of the disputed domain name as contemplated by paragraph 4(c)(iii) of the Policy.

Generally speaking, UDRP panels have found that domain names identical to a complainant's trademark carry a high risk of implied affiliation. In this instance, the disputed domain name reproduces the textual elements of the Complainant's trademark without addition. The Panel finds that the disputed domain name carries a risk of implied affiliation with the Complainant, which does not support a claim of fair use. [WIPO Overview 3.0](#), section 2.5.1.

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 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.

Noting that the disputed domain name has been used to redirect Internet users to a website offering products in direct competition with those offered by the Complainant, the Panel infers that the Respondent knew of the Complainant and its rights in the GOURMET HOUSE CAVIAR trademark when registering the disputed domain name, and proceeded to register the disputed domain name carrying a risk of implied affiliation with the Complainant, in bad faith.

Internet users seeking the Complainant online were likely to be misled to the website to which the disputed domain name previously resolved. The Panel finds that by using the disputed domain name in such a manner, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the website to which the disputed domain name previously resolved, by creating a likelihood of confusion with the Complainant's GOURMET HOUSE CAVIAR trademark as to the source, sponsorship, affiliation, or endorsement of that website and the goods offered for sale therein, in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

The fact that the disputed domain name no longer resolves to an active website does not alter the Panel's findings in this regard.

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 <gourmethousecaviar.com> be transferred to the Complainant.

*/Jane Seager/*

**Jane Seager**

Sole Panelist

Date: October 8, 2024