

## **ADMINISTRATIVE PANEL DECISION**

Ateliers Clozeau v. Steven Solomon  
Case No. D2024-3443

### **1. The Parties**

The Complainant is Ateliers Clozeau, France, represented by Cabinet Bouchara, France.

The Respondent is Steven Solomon, United States of America (“United States”).

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

The disputed domain name <gigiclozeaus.shop> is registered with Web Commerce Communications Limited dba WebNic.cc (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 22, 2024. On August 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 26, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on August 27, 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 27, 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 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 18, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 20, 2024.

The Center appointed Angelica Lodigiani as the sole panelist in this matter on October 1, 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 operating in the field of design, manufacture and distribution of jewelry. The Complainant is the owner of the following trademark registrations:

- GIGI CLOZEAU (word), French registration No. 3932157, registered on July 5, 2012, for goods in classes 14, 25 and 26;
- GIGI CLOZEAU (figurative), European Union registration No. 016991895, registered on January 30, 2019, for goods and services in classes 14, 18, 20, 25, 35, 37, 40 and 42;
- GIGI CLOZEAU (figurative), International registration No. 1470254, registered on March 14, 2019, for goods and services in classes 14, 35 and 40, designating various jurisdictions among which the United States.

The Complainant is also the owner of the domain name <gigiclozeau.fr> since 2016, which it uses to promote and sell its jewellery products.

The disputed domain name was registered on November 4, 2023, and resolves to a website displaying the GIGI CLOZEAU word mark and offering for sale alleged GIGI CLOZEAU jewelry products at discounted prices.

The Respondent is an individual allegedly located in the United States.

#### **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 Complainant's mark, as it fully incorporates this mark followed by the letter "s". The addition of this letter cannot prevent a finding of confusing similarity, as the Complainant's mark is clearly recognizable within the disputed domain name.

The Complainant further contends that the Respondent lacks rights or legitimate interests in the disputed domain name. The Complainant has no relationship with the Respondent and is not related to the Respondent in other way. The Respondent does not appear to be the owner of any mark consisting of the words "gigi clozeau". The Complainant did not authorize the Respondent to reproduce its mark in the disputed domain name or to make use of its mark in any other possible manner. The disputed domain name resolves to a website displaying the word mark GIGI CLOZEAU and promoting the sale of jewelry products under this mark. This use cannot confer rights or legitimate interests in the disputed domain name, as the Respondent is trying to unfairly capitalize on the Complainant's goodwill and reputation of the Complainant's marks for commercial gain.

Finally, the Complainant maintains that the disputed domain name has been registered and is being used in bad faith. According to the Complainant, the Respondent could not ignore the GIGI CLOZEAU mark at the time of the registration of the disputed domain name. The disputed domain name has been registered many years after the Complainant started operating under its mark. The Complainant is the owner of the domain

name <gigiclozeau.fr> since 2016, which it uses to promote and sell its products online. The Complainant is also the owner of an Instagram account with more than 100,000 followers. Accordingly, the Respondent could not ignore the Complainant's strong online presence when it registered the disputed domain name.

The disputed domain name leads to a website displaying the Complainant's mark and offering for sale jewelry products under this mark without the Complainant's authorization. The Respondent's website is highly misleading and suggests that the Complainant is affiliated with, or sponsors, the Respondent's website. Such use of the disputed domain name indicates that the Respondent has intentionally attempted to attract Internet users to its website by creating a likelihood of confusion with the Complainant's mark.

## **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 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 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. In particular, the Panel notes that the disputed domain name consists of the Complainant's mark followed by the letter "s".

The Panel therefore 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.

In particular, the Complainant referred that it does not have any relationship with the Respondent and that it never authorized the Respondent to make use of its GIGI CLOZEAU mark, including as part of the disputed domain name. The Respondent did not file a Response and therefore did not object to the Complainant's statement. Moreover, the Panel notes that nothing in the case file shows that the Respondent was commonly known by the disputed domain name or by a name corresponding to the disputed domain name, even if the Respondent did not acquire corresponding trademark or service mark rights, when the Respondent registered the disputed domain name.

Already the nature of the disputed domain name itself, consisting of the Complainant's GIGI CLOZEAU mark followed by the letter "s" and the generic Top-Level Domain ("gTLD") ".shop", suggest sponsorship or endorsement by the trademark owner. Internet users could easily believe that the disputed domain name leads to the online shop of the Complainant (the last letter "s" being added as Saxon genitive). [WIPO Overview 3.0](#), section 2.5.1.

Moreover, the use of the disputed domain name is also misleading. At the time of the filing of the Complaint, the disputed domain name resolved to a website displaying the Complainant's GIGI CLOZEAU word mark and offering for sale jewelry products under this mark at discounted prices. The Panel notes that the Respondent's website was in French and that the pictures of the jewelry products allegedly on sale on this website were taken from the Complainant's website. Accordingly, the Complainant's potential customers could easily believe that the disputed domain name and the associated website belonged to the Complainant rather than to an unrelated third party. Visitors of the Respondent's website wishing to buy an alleged GIGI CLOZEAU product would have to reveal their sensitive information, such as their personal names, addresses, passwords and credit card details.

The Panel does not know whether the goods offered for sale on the Respondent's website are counterfeit or genuine. However, there are circumstances that suggest the non-originality of the products, such as the fact that the Complainant's products are only sold through the Complainant's website and selected stores, and that the Respondent has misappropriated copyrighted images from the Complainant's website. Panels have held that the use of a domain name for illegal activity here, sale of counterfeit or unauthorized goods, impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Accordingly, 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 Respondent was likely aware of the Complainant's marks and activity when it registered the disputed domain name. Noting the general powers of a panel articulated *inter alia* in paragraphs 10 and 12 of the UDRP Rules, the Panel has undertaken some limited factual research into matters of public record. In particular, the Panel has visited the Complainant's website and noted that the trademark GIGI CLOZEAU derives from the name of the designer of the jewelry products sold under this mark. Accordingly, the GIGI CLOZEAU trademark is distinctive and strictly related to the Complainant and it is quite unlikely (if not impossible) that the Respondent chose the disputed domain name by mere coincidence. Instead, the Panel believes that the Respondent selected the disputed domain name with full knowledge of the Complainant, and of its mark and activity. Such previous knowledge of the Complainant and of its mark is confirmed by the use that the Respondent was making of the disputed domain name at the time of the filing of the Complaint.

The registration of a disputed domain name confusingly similar to the Complainant's mark, being aware of such mark and without rights or legitimate interests amounts to registration of the disputed domain name in bad faith.

With respect to use in bad faith, as mentioned above, at the time of the filing of the Complaint, the disputed domain name resolved to a misleading website with contents in French, which is the language of the Complainant, depicting the Complainant's word mark GIGI CLOZEAU and offering for sale alleged GIGI CLOZEAU jewelry products at discounted prices. To promote these goods the Respondent used copyrighted materials from the Complainant's official website. Therefore, the Panel concludes that the Respondent has been using the disputed domain name to attract the Complainant's potential consumers to its website, by luring them into believing that the Respondent's website originates from (or is affiliated to, or sponsored by), the Complainant, while it is not. The aim of the Respondent was clearly that of obtaining a commercial gain from the sale of the products purchased through its website or from the insertion, on the Respondent's website, of the lured customers' sensitive information.

Panels have held that the use of a domain name such as impersonation/passing off, or other types of fraud constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

Accordingly, the Panel finds that the Complainant has established the third and last 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 <gigiclozeaus.shop> be transferred to the Complainant.

*/Angelica Lodigiani/*

**Angelica Lodigiani**

Sole Panelist

Date: October 6, 2024