

## **ADMINISTRATIVE PANEL DECISION**

Masco Corporation, Delta Faucet Company v. mike simon / tanjiancong  
tanjiancong, tanjiancong  
Case No. D2024-3505

### **1. The Parties**

The Complainants are Masco Corporation and Delta Faucet Company, United States of America ("United States"), represented by Demys Limited, United Kingdom.

The Respondents are mike simon, United Kingdom / tanjiancong tanjiancong, tanjiancong, United States.

### **2. The Domain Names and Registrars**

The disputed domain name <brizoluxe.shop> is registered with NameSilo, LLC (the "Registrar"). The disputed domain name <deltafaucetworld.com> 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 28, 2024. On August 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On August 29, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (REDACTED FOR PRIVACY / Domain Admin, Whoisprotection.cc) and contact information in the Complaint.

The Center sent an email communication to the Complainants on September 4, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar(s), requesting the Complainants to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that both disputed domain names are under common control. The Complainants filed an amended Complaint on September 9, 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 Respondents of the Complaint, and the proceedings commenced on September 12, 2024. In accordance with the Rules, paragraph 5, the due date for the Response was October 2, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Parties of the Respondents' default on October 3, 2024.

The Center appointed Ingrida Kariņa-Bērziņa as the sole panelist in this matter on October 14, 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 Masco Corporation ("Complainant Masco") is a Delaware Corporation headquartered in Livonia, Michigan, United States. It designs, manufactures and distributes decorative architectural and plumbing products, among them faucets and bath fixtures marketed under the BRIZO and DELTA brands.

The Complainant Delta Faucet Company ("Complainant Delta"), headquartered in Indianapolis, Indiana, United States, is a wholly owned subsidiary of Complainant Masco. It manufactures residential and commercial faucets under the BRIZO and DELTA marks, for which it has registered the following trademarks:

- United States Trademark No. 3114924 for BRIZO (device mark), registered on July 11, 2006, for goods in class 11, claiming a date of first use in February 2004;
- European Union Trade Mark No. 004883311 for BRIZO (word mark), registered on January 16, 2007, for goods in classes 11 and 21;
- United Kingdom Trade Mark No. UK000312987B for DELTA (word mark), registered on May 11, 1909, for goods in class 11;
- United States Trademark No. 668880 for DELTA (word mark), registered on October 28, 1958, for goods in class 11, claiming a date of first use in July 1952.

Complainant Delta operates websites featuring its respective brands at the domain names <brizo.com> and <deltafaucet.com>.

The disputed domain name <deltafaucetworld.com> was registered on March 21, 2024. At the time of this Decision, it did not resolve to an active website. The disputed domain name <brizoluxe.shop> was registered on April 1, 2024. At the time of the filing of the Complaint, both disputed domain names resolved to similar websites offering faucets for sale, including those displaying the DELTA and BRIZO trademarks and images of the Complainants' products.

No information is available about the Respondents.

#### **5. Parties' Contentions**

##### **A. Complainants**

##### **1. Consolidation**

###### *Request for Consolidation of Complainants*

The Complainants contend that they have a specific common grievance against the Respondent. Both Complainants form part of the same corporate group; Complainant Delta is a wholly owned subsidiary of Complainant Masco. The disputed domain names take unfair advantage of the Complainants' reputation and are confusingly similar to Complainant Delta's registered BRIZO and DELTA rights. As such, they have

a common legal interest in the BRIZO and DELTA trademark rights. The Complainants contend that the Respondent will not be prejudiced by the Complaint being brought jointly by both Complainants.

#### *Request for Consolidation of Respondents*

The Complainants contend that, on balance, it is more likely than not that both disputed domain names are under common control. Both disputed domain names were registered using the same e-mail address within ten days and using a privacy service. Both appear to target Complainant Delta by reflecting its BRIZO and DELTA marks within the disputed domain names. Both resolve to very similar websites, allegedly offering Complainants' products at heavy discount, as well as third-party products, and apparently lacking genuine address details. Both websites are hosted with the same hosting provider, use the same font for the headline and same overall color scheme, share an identical website structure and design, and display identical pop-up messages referencing additional discounts. Both websites use copyrighted product photographs and other graphical illustrations directly copied from the Complainants' websites.

## **2. Substantive Arguments**

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainants contend that Complainant Masco was founded in 1929. Today it owns around 100 subsidiaries, operates 38 manufacturing facilities and employs 19,000 people around the world. Complainant Delta was founded by Complainant Masco in 1954 and is today one of the largest manufacturers of faucets in the United States. The DELTA brand is Complainant Delta's flagship brand of faucets and related products. BRIZO brand products are offered only to the trade at a higher price point. Both marks are well-known around the world and visible on social media. The oldest of Complainants' marks predates the registration of the disputed domain names by more than 100 years. The disputed domain names reflect the Complainants' marks in their entirety with terms that refer to the Complainants' business. The Respondents are not licensees of the Complainants, nor are they authorized to use the DELTA or BRIZO marks. The Respondents' websites purport to offer for sale products of the Complainants at a heavy discount, but the websites do not disclose that the Respondents are not genuine resellers of the Complainants' products. It is highly likely that the Respondents are counterfeit or at least parallel import / grey market goods that are not authorized by the right holder. The websites ask users to input an e-mail address and password, potentially enabling the Respondents to obtain personal information from users. The websites display images copied from the Complainants' websites and mimic the Complainants' corporate style including the black and white color theme.

The Complainants request transfer of the disputed domain names.

## **B. Respondents**

The Respondents did not reply to the Complainants' contentions.

## **6. Discussion and Findings**

Paragraph 4(a) of the UDRP requires the Complainants to make out all three of the following:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainants have rights;
- (ii) the Respondents have no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the Respondents have registered and are using the disputed domain names in bad faith.

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

## **A. Procedural Matters: Consolidation**

### **1. Multiple Complainants**

The principles to assess a request to consolidate multiple complainants are set forth in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 4.11.1.

Noting the circumstances of the case, in particular the fact that the Complainant Delta is the proprietor of the DELTA and BRIZO marks and is a wholly owned subsidiary of the Complainant Masco. The disputed domain names reflect these marks. The Panel therefore considers that the Complainants have a specific common grievance against the Respondents and the Respondents have engaged in common conduct that has affected the Complainants in a similar fashion. Under the circumstances, the Panel finds it would be equitable and procedurally efficient to permit the consolidation.

The Respondents do not challenge the Complainants’ assertions nor offer any alternative explanation for these circumstances. Accordingly, the Panel accepts the Complainants’ request to consolidate the present proceedings pursuant to the Rules, paragraph 10(e). The Complainants are hereinafter referred to as “the Complainant”.

### **2. Multiple Respondents**

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant’s request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant’s request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See [WIPO Overview 3.0](#) section 4.11.2.

As regards common control, the Panel notes that the disputed domain names were registered with the same e-mail address within a short period of time. Both reflect the Complainant’s marks and resolve to similar websites purporting to offer the Complainant’s products and display the Complainant’s marks and images from the Complainant’s own websites. The websites are hosted using the same service.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as “the Respondent”) in a single proceeding.

## **B. 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 trademark or service marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the BRIZO and DELTA marks are 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.

Although the addition of other terms (here, "luxé", "faucet" and "world") may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

### **C. 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 disputed domain names reflect the Complainant's well-established BRIZO and DELTA marks together with terms referring to the Complainant's business. The <deltafaucetworld.com> domain name also mirrors the composition of the Complainant's domain name at <deltafaucet.com>. Such a composition carries a risk of implied affiliation with the Complainant, which is inconsistent with a finding that the Respondent has rights or legitimate interests in the disputed domain names. See [WIPO Overview 3.0](#), section 2.5.1.

Panels have held that the use of a domain name for illegal activity (here, claimed sale of counterfeit or grey market goods, and passing off) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. The Panel notes, in particular, the Respondent's use of images copied from the Complainant's website and the heavy discounts applied to the goods marketed as originating from the Complainant.

Panel notes that the websites purport to offer the Complainant's goods along with those of other manufacturers, and that they fail to disclose the relationship with the Complainant. Under such circumstances, the Panel is unable to find that the Respondent has a legitimate interest in the disputed domain names as a reseller. [WIPO Overview 3.0](#), section 2.8.1.

The Panel finds the second element of the Policy has been established.

#### **D. 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 intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark. The disputed domain names were registered more than 100 years after the Complainant first registered its DELTA trademark and more than 15 years after the Complainant first registered its BRIZO mark. The disputed domain names reflect the Complainant's marks together with terms referring to its business, therefore implying a connection to the Complainant. Under these circumstances, the Panel finds that the disputed domain names were registered in bad faith. [WIPO Overview 3.0](#), section 3.1.

Panels have held that the use of a domain name for illegal activity (here, claimed sale of counterfeit or gray market goods, and passing off) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. The Respondent's websites purport to offer the Complainant's goods at a significant discount. The websites prominently feature the Complainant's marks and images copied from the Complainant's websites and mimic the Complainant's black-and-white corporate website color theme. The websites, through which the Respondent also offers third-party goods for sale, lack any disclaimer of the relationship between the Respondent and the Complainant. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy.

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 names <brizoluxe.shop> and <deltafaucetworld.com> be transferred to the Complainant.

*/Ingrīda Kariņa-Bērziņa/*

**Ingrīda Kariņa-Bērziņa**

Sole Panelist

Date: October 28, 2024