

ADMINISTRATIVE PANEL DECISION

Glen Raven, Inc. v. Courtney Pietras, Sunbrella
Case No. D2024-3589

1. The Parties

The Complainant is Glen Raven, Inc., United States of America, represented by Wiley Rein, LLP, United States of America (“United States”).

The Respondent is Courtney Pietras, Sunbrella, United States of America.

2. The Domain Name and Registrar

The disputed domain name <sunbrellagirls.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 4, 2024. On September 6, 2024, the Center emailed the Registrar a request for registrar verification in connection with the disputed domain name. On September 6, 2024, the Registrar transmitted by email to the Center its verification response disclosing the registrant and contact information for the disputed domain name, which differed from the named Respondent (Contact Privacy Inc. Customer 0171858102) and contact information in the Complaint. The Center sent an email to the Complainant on September 9, 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 September 11, 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 September 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 9, 2024.

The Center appointed William F. Hamilton as the sole panelist in this matter on October 15, 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 leading manufacturer of fabrics founded in 1880 in the United States. The Complainant's fabrics are used in awnings, canopies, windscreens, umbrellas, footwear, clothing and clothing accessories, clean room and health care environments, automotive applications, marine applications such as boat tops, boat covers and sail covers, indoor and outdoor furniture, home furnishings and accessories, tents, luggage, and flags. The Complainant maintains offices and manufacturing facilities in the United States, South America, Europe, Africa, and Asia.

The Complainant owns and utilizes the domain name <sunbrella.com> to promote its products.

The Complainant owns United States Patent and Trademark Registration No. 709,110 for the trademark SUNBRELLA (the "Mark") dated December 27, 1960. The Complainant subsequently registered numerous word and design trademarks related to the original Mark registration with the United States Patent and Trademark Office.

The disputed domain name was registered on July 24, 2024. When the Complaint was filed, the disputed domain name resolved to a website offering products for sale that competed with the Complainant and prominently featured the Mark. On August 26, 2024, the Complainant sent a letter to the Respondent demanding the Respondent cease and desist using the disputed domain name but received no response. The disputed domain name, as of the date of this decision, currently resolves to an inactive website.

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 the disputed domain name is confusingly similar to the Mark because the disputed domain name consists of the Mark plus the suffix "girls." The Complainant contends that the Complainant never authorized the Respondent to use the disputed domain name, that the Respondent is not generally known by the disputed domain name, never operated a business under the disputed domain name, has not advertised the disputed domain name, and never engaged in any bona fide commercial activity in connection with the disputed domain name. The Complainant asserts that the Respondent knew of the Mark and registered and used the disputed domain name in bad faith to confuse unsuspecting Internet users and divert persons seeking the Complainant's website or information about the Complainant's products.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel that:

- (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 of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7. The Complainant has shown rights in the Mark for the purposes of the Policy by virtue of the Mark's registration. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's Mark because the disputed domain name incorporates the Mark in its entirety and merely adds the word "girls" as a suffix. [WIPO Overview 3.0](#), section 1.7.

Although the addition of another term (here, "girls") may bear on the assessment of the second and third elements, the Panel finds the addition of such a term 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 Top-Level Domain ("TLD") of the disputed domain name, in this case ".com", may be disregarded for the purposes of assessment under the first element, as it is viewed as a standard registration requirement. See [WIPO Overview 3.0](#), section 1.11.1 and *Monster Energy Company, a Delaware Corporation v. J.H.M. den Ouden*, WIPO Case No. [D2016-1759](#).

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.

The Panel finds on the evidence that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has expressly disavowed providing the Respondent with permission to use the disputed domain name or the Mark. There is no evidence that the Respondent has made a bona fide offering of goods or services under the disputed domain name or is commonly known by the disputed domain name. The Respondent has failed to provide evidence showing rights or legitimate interests in the disputed domain name.

The disputed domain name is confusingly similar to the Mark and will cause Internet users to believe that the disputed domain name resolves to a website sponsored, affiliated, or owned by the Complainant. Such use of a disputed domain name cannot establish rights or legitimate interests in the disputed domain name.

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

C. Registered and Used in Bad Faith

Under paragraph 4(b) of the Policy, bad faith may be established by any one of the following non-exhaustive scenarios:

- (i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

On the evidence presented, including the registration of the disputed domain name under a privacy shield, the prominent adoption of the Complainant's distinctive Mark in the disputed domain name, the offering for sale of similar products as the Complainant sells at the Respondent's website, the prominent featuring of the Complainant's Mark at the Respondent's website, the takedown of the Respondent's website after the filing of the Complaint, and the Respondent's failure to respond to the Complaint or the Complainant's cease and desist letter, the Panel finds that the Respondent implemented a scheme that prominently featured the Complainant's Mark in the disputed domain name to confuse and trick persons into believing that the products offered for sale by the Respondent are Complainant products or products sponsored, endorsed, or made by the Complainant. [WIPO Overview 3.0](#), section 3.1.3.

The Panel finds the Respondent attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant and its Mark.

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

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 <sunbrellagirls.com> be transferred to the Complainant.

/William F. Hamilton/

William F. Hamilton

Sole Panelist

Date: October 23, 2024