

ADMINISTRATIVE PANEL DECISION

IW Apparel, LLC, Workwear Outfitters, LLC, Imagewear Apparel, LLC v.
Deborah Gordon, Deborah Gordon
Case No. D2024-3987

1. The Parties

Complainants are IW Apparel, LLC, Workwear Outfitters, LLC, and Imagewear Apparel, LLC, United States of America (“United States”), represented by Holland & Knight, LLP, United States.

Respondent is Deborah Gordon, Deborah Gordon, United States.

2. The Domain Name and Registrar

The disputed domain name <workauthoritycheap.shop> (hereinafter “Disputed Domain Name”) 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 September 27, 2024. On September 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On September 30, 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 (“Respondent Information Hidden By Privacy Service”) and contact information in the Complaint. The Center sent an email communication to Complainants on September 30, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainants filed an amendment to the Complaint on October 12, 2024.

The Center verified that the Complaint together with the amendment to the 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 Respondent of the Complaint, and the proceedings commenced on October 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 3, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on November 12, 2024.

The Center appointed Lawrence K. Nodine as the sole panelist in this matter on November 18, 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

Since 2006, Complainants, or their predecessors-in-interest, have used the service mark WORK AUTHORITY (hereinafter the “Mark”) in connection with a retail business (including a physical store in Canada, a mail-order catalog and an online store) that sells footwear, clothing, and personal protective equipment (in view of their common connection and interest, Complainants will hereinafter be referred to “Complainant” unless otherwise indicated). Complainant IW Apparel, LLC owns Canadian Trademark Registration No. TMA789436 (registered February 13, 2006). for the Mark. Complainant uses the domain name <workauthority.ca> for their online store, where Complainant publishes photos and text descriptions of products that it offers to sell. In addition to products bearing well-known third-party brands, Complainant sells its own products branded with trademarks that it owns.

The Disputed Domain Name was registered August 14, 2024. The associated webpages (hereinafter sometimes “Disputed Webpages”) prominently display WORKAUTHORITYCHEAP and “SALE” at the top of the pages, which purport to sell many of Complainant’s branded products at prices discounted against the prices that appear on Complainant’s authentic website (e.g., “~~\$199.99~~ \$80.00”). The Disputed Webpages display copies of the photos and text descriptions that Complainant published on its website to depict products that it offers for sale

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

B. Respondent

Respondent did not respond to the Complaint.

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 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.

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 entirety of the Mark is reproduced and recognizable within the Disputed Domain Name. The Disputed Domain Name includes the additional term “cheap” appended after the Mark, but this 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. Accordingly, the Disputed Domain Name is confusingly similar to the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on 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 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 that Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Disputed Domain Name. Respondent has not rebutted 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 that Respondent is impersonating Complainant, as evidenced by, among other things, her use of the Mark plus the term “cheap,” together with the word “sale,” which indicates a reduction in price off the present vendor’s original price. Based on the Panel’s review of 20 products for “sale” on Respondent’s website, the Panel finds that in all of the reviewed examples the original price (stricken through) is Complainant’s price. Respondent offers a collection of products that mimics Complainant’s collection. Respondent uses copies of Complainant’s product photographs and descriptions. All of these facts support the Panel’s finding that Respondent is impersonating Respondent. [WIPO Overview 3.0](#), section 2.13.

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

C. Registered and Used in Bad Faith

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.

The Panel finds that Respondent registered the Disputed Domain Name in bad faith. Respondent was likely aware of Complainant when she registered the Disputed Domain Name. Adding the word “cheap” to Complainant’s Mark indicates that Respondent intended to target the Mark and offer Complainant’s product collection at “cheap” prices. Complainant’s impersonation of Complainant’s website, product array, and her copying of Complainant’s photographs and product descriptions adds up to indisputable evidence that Respondent was targeting Complainant when she registered the Disputed Domain Name.

Respondent is also using the Disputed Domain Name in bad faith fraudulently to pass off and impersonate Complainant for commercial gain to attract and divert Internet users from Complainant. This is bad faith use. Policy paragraph 4(b)(iv); [WIPO Overview 3.0](#), section 3.2.

The Panel finds that 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 <workauthoritycheap.shop> be transferred to Complainant.

/Lawrence K. Nodine/

Lawrence K. Nodine

Sole Panelist

Date: December 2, 2024