

ADMINISTRATIVE PANEL DECISION

Guapi Clothing FZ-LLC v. Owen Smith
Case No. D2024-4061

1. The Parties

The Complainant is Guapi Clothing FZ-LLC, United Arab Emirates, represented by ChaseLawyers, United States of America.

The Respondent is Owen Smith, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <guapiclothings.com> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 1, 2024. On October 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 3, 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 (privacy service) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 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 amendment to the Complaint on October 14, 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 the Respondent of the Complaint, and the proceedings commenced on October 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 5, 2024.

The Center appointed Jeremy Speres as the sole panelist in this matter on November 8, 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 has traded under its GUAPI mark for at least five years in relation to clothing and related apparel. The Complainant has collaborated with internationally recognized musicians such as Kidd Keo, NBA Youngboy, and Swae Lee. The Complainant's @Guapi Instagram account has over 475,000 followers.

The Complainant owns the domain name <guapi.ch>, registered in 2017, from which it operates its primary website.

The Complainant referred to two United States trademark applications for the GUAPI mark in word and design form, which are still pending. The Panel has independently established that the Complainant owns United Kingdom Trademark Registration No. UK00004071305 GUAPI (word) in classes 14, 25, and 35, having a registration date of September 27, 2024.

The disputed domain name was registered on April 25, 2024, and does not currently resolve to an active website. The Complainant's evidence, as well as the Panel's independent viewing of Internet Archive records for the disputed domain name, establish that the disputed domain name previously resolved to a website selling clothing at discounted prices and which features the Complainant's logo, as well as product imagery and text purportedly sourced from the Complainant's 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. Notably, the Complainant contends that the disputed domain name was registered and used in bad faith in order to impersonate the Complainant.

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 entirety of the mark is reproduced 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. Although the addition of other term, here "clothings", may bear on assessment of the second and third

elements, the Panel finds the addition of such 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 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.

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 general impression created by the website to which the disputed domain name resolved previously is one of impersonation of the Complainant. UDRP panels have categorically held that the use of a domain name for illegitimate activity, here impersonation, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. To the extent that the disputed domain name’s website might be considered that of a reseller of the Complainant’s products, it does not meet the requirements of the well-known Oki Data test given that the site does not accurately and prominently disclose the Respondent’s relationship with the Complainant. *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#); and [WIPO Overview 3.0](#), section 2.8.

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.

Panels have held that the use of a domain name for illegitimate activity, here impersonation, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Considering the indicators of impersonation apparent on the Respondent’s website highlighted in the Factual Background section above, it is clear that the Respondent intended to impersonate the Complainant. The composition of the disputed domain name, featuring the Complainant’s mark plus the term “clothings”, which is clearly relevant to the Complainant’s business, strengthens this conclusion. [WIPO Overview 3.0](#), section 3.2.1. Paragraph 4(b)(iv) of the Policy is thus eminently applicable.

Moreover, while the disputed domain name was registered before the registration of the Complainant’s trademark, the Complainant has provided some evidence supporting claims of earlier unregistered trademark rights, and it is clear that the Respondent’s intent in these circumstances was to unfairly capitalize on the

Complainant's nascent trademark rights. Accordingly, the Panel finds the Respondent registered the disputed domain name in bad faith. [WIPO Overview 3.0](#), section 3.8.2.

The Panel draws an adverse inference from the Respondent's failure to reply to the Complainant's contentions, where an explanation is certainly called for. [WIPO Overview 3.0](#), section 4.3.

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 <guapiclothings.com> be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: November 13, 2024