

## **ADMINISTRATIVE PANEL DECISION**

CLARINS v. aleyna cepci  
Case No. D2024-4134

### **1. The Parties**

The Complainant is CLARINS, France, represented by Tmark Conseils, France.

The Respondent is aleyna cepci, Türkiye.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 8, 2024. On October 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 10, 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 (IDENTITY UNDISCLOSED) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 10, 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 October 15, 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 October 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 7, 2024.

The Center appointed Anne-Virginie La Spada as the sole panelist in this matter on November 11, 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, a French multinational cosmetics company, is a major actor in the field of skincare and make-up products, and in the spa and well-being sector.

The Complainant owns in particular the following trademarks:

- French trademark registration for CLARINS no. 1637194, registered on January 7, 1991 in classes 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45 ; and
- European Union trademark application (currently pending) for CLARINS HAIR THERAPY & design no. 019082796, filed on September 23, 2024 in class 3.

The Complainant is also the owner of the domain name <clarins.com> since 1997.

The disputed domain name was registered on September 23, 2024, coinciding with the trademark filing date of the Complainant's trademark CLARINS HAIR THERAPY & design.

At the time of filing of the Complaint, the disputed domain name redirected users to a parking page where the disputed domain name was listed for sale for USD 2,850.

#### 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.

According to the Complainant, the disputed domain name is confusingly similar to its CLARINS registered trademark as it identically reproduces its trademark with the mere adjunction of the terms "hair therapy", which describe the nature of the products commercialized by the Complainant.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name for the following reasons: (i) the Complainant has prior rights to the trademark, company name and domain name CLARINS; (ii) the Respondent has no right or activity under the name CLARINS and there appears to be no legitimate reason why the Respondent would incorporate identically the Complainant's well-known trademark, company name and domain name in the disputed domain name; (iii) the disputed domain name resolves to a parking page where the disputed domain name is listed for sale, which confirms that the Respondent has failed to use the disputed domain name for a bona fide offering of goods and services; and (iv) the Respondent is not affiliated nor authorized by the Complainant in any way; specifically no license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark, or apply for registration of the disputed domain name.

Finally, the Complainant contends that the Respondent has used and registered the disputed domain name in bad faith. According to the Complainant, the Respondent was aware of the existence of the Complainant and of its trademark when it registered the disputed domain name. Moreover, the Complainant considers that it can be no coincidence that the disputed domain name was registered the very same day as the filing day of the European Union trademark CLARINS HAIR THERAPY of the Complainant. The Respondent has therefore most likely registered the disputed domain name in order to block the Complainant from registering this trademark as a domain name later. The Complainant further asserts that the Respondent is using the disputed domain name for the purpose of selling the disputed domain name to the Complainant at a very expensive price, a behavior amounting to registration and use in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

According to paragraph 4(a) of the Policy, a complainant must assert and prove each of the following:

- (i) the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) the domain name registered by the respondent has been 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 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 CLARINS 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 terms (here, "hair", and "therapy") 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.

### **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.

Indeed, based on the information submitted by the Complainant, the Complainant has not granted the Respondent authorization to use its trademark within the disputed domain name. Moreover, there is no evidence indicating that the Respondent is commonly known by the disputed domain name.

Furthermore, the record contains no evidence that the Respondent has used or made demonstrable preparations to use the disputed domain name in connection with any type of bona fide offering of goods or services. Instead, the disputed domain name is parked on a web page listing the disputed domain name for sale at a price of USD 2,850, i.e., an amount likely well exceeding the out-of-pocket expenses usually incurred for the registration of a domain name. In the Panel's view, such behavior does not suggest any legitimate right or interest in the disputed domain name.

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.

In the present case, the Panel is convinced that the Respondent was aware of the Complainant's trademark CLARINS at the time it registered the disputed domain name, given the distinctive nature and the well-known character of such mark throughout the world. The Panel finds it also highly likely that the Respondent was aware of the Complainant's pending trademark CLARINS HAIR THERAPY & design, given the timing of the registration of the disputed domain name, obtained on the day the Complainant filed a European Union trademark application for such mark.

Furthermore, the Complainant has demonstrated that the disputed domain name was offered for sale shortly after its registration for the amount of USD 2,850. Accordingly, the Panel finds on the balance of probabilities that the Respondent has registered or acquired the disputed name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name to the Complainant or to a competitor of the Complainant, for valuable consideration in excess of his documented out-of-pocket costs directly related to the domain name. The Panel, therefore, finds that bad faith has been demonstrated under 4(b)(i) of the Policy.

For the reasons set out above, the Panel finds that the Respondent has registered and used the disputed domain name in bad faith.

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 <clarinshairtherapy.com> be transferred to the Complainant.

*/Anne-Virginie La Spada/*

**Anne-Virginie La Spada**

Sole Panelist

Date: November 26, 2024