

## **ADMINISTRATIVE PANEL DECISION**

The Procter & Gamble Company, Braun GmbH v. Cha Laban Cha Laban  
Case No. D2024-4260

### **1. The Parties**

The Complainants are The Procter & Gamble Company, United States of America (“United States”), and Braun GmbH, Germany, represented by Studio Barbero S.p.A., Italy.

The Respondent is Cha Laban Cha Laban, United States.

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

The disputed domain name <braun-eu.top> is registered with NameSilo, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 16, 2024. On October 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 16, 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 (Domain Administrator, PrivacyGuardian.org llc) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 16, 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 17, 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 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 17, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 18, 2024.

The Center appointed Gary Saposnik as the sole panelist in this matter on November 20, 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 Proctor & Gamble Company (the “First Complainant”) was founded in 1837 and is a well-known manufacturer of a wide range of consumer products. It has a presence in approximately 80 countries and covering over 60 brands.

Braun GmbH (the “Second Complainant”) has been a subsidiary and member of the Proctor & Gamble group of companies since 2005. The Second Complainant was founded in 1921 and entered the shaving and the kitchen and household appliances segment in the 1950s. After its acquisition in October 2005 by the First Complainant, BRAUN became one of 23 global brands in the consumer goods group that achieve annual sales of more than one billion US dollars. To date, the Second Complainant has received over 100 internationally recognized design prizes for its products and holds more than 8,000 active patents.

The Complainants operate within an extensive sales network consisting of about 100,000 employees in over 180 countries and through their distribution channels BRAUN products are distributed worldwide, including in the United States.

The Complainants are the owners of numerous trademark registrations for BRAUN in several countries, including the following that are registered in the name of the Second Complainant:

- BRAUN (word mark) International Trademark Registration No. 652027, registered November 14, 1995, in classes 11, 14, 16, 21, 26, 35, and 37;
- BRAUN (figurative mark) International Trademark Registration No. 400415, registered May 23, 1973, in classes 7, 8, 9, 10, 11, 14, 15, 21, and 34;
- BRAUN (stylized mark) United States Registration No. 4148851, registered May 29, 2012, in classes 8 and 21.

The Complainants have registered hundreds of domain names worldwide consisting of or comprising the sign BRAUN (including variants thereof). The Complainants’ principal website regarding the BRAUN brand, where products are advertised and offered for sale is “www.braun.com”, based on the domain name <braun.com>, registered on June 24, 1997, in the name of the First Complainant. The Complainants’ official website dedicated to consumers based in the United States is available at “https://us.braun.com/en-us”.

The disputed domain name was registered on April 27, 2024. When the Complainants became aware of the disputed domain name, it resolved to a website displaying the Complainants’ trademarks and official images and offering for sale BRAUN products at very discounted prices. The website did not contain any disclaimer of non-affiliation with the Complainants. The website did not contain the name of the company affiliated with the website, nor was there any detailed contact information about the entity managing the online store. The website also published information about the Second Complainant’s history in the “About Us” section.

Following the Complainants’ sending of a cease and desist letter via email to the Respondent, the disputed domain name was deactivated. A reminder to the cease and desist letter was subsequently sent, with no response from the Respondent to either communication.

## 5. Parties' Contentions

### A. Complainant

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

Notably, the Complainants contend that the disputed domain name is confusingly similar to its registered trademarks for BRAUN in which the Complainants have substantial worldwide rights and reputation. The disputed domain name incorporates the whole of the Complainants' BRAUN trademark, while merely adding a hyphen as well as "eu", which can be interpreted as a geographical term for the European Union. The addition of generic or descriptive terms does not prevent a finding of confusing similarity under the first element and is apt to increase confusion since users could believe that the disputed domain name is used by the Complainant in connection with its official BRAUN web portal for the European Union. Because the Complainants' trademark is recognizable within the disputed domain name, the inclusion of the additional elements does not prevent a finding of confusing similarity. *Accenture Global Services Limited v. WhoisGuard Protected, WhoisGuard, Inc. / Basikta James*, WIPO Case No. [D2020-2955](#), WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), Section 1.8.

Similarly, the addition of a hyphen is insufficient to reduce the identity or confusing similarity with the Complainant's marks. (See *Accenture* case above). Additionally, the generic top-level domain ".top" is merely instrumental to the use of the Internet, so the disputed domain name remains confusingly similar despite its inclusion. [WIPO Overview 3.0](#), section 1.11.

The Complainants allege that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not a licensee, authorized agent of the Complainants or in any other way authorized to use the Complainants' BRAUN trademark, nor authorized to register or use BRAUN in a domain name. The Respondent is not commonly known by a name corresponding to the disputed domain name as an individual, business, or other organization. The Respondent has not provided any evidence of use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services before or after any notice of the disputed. There is also no evidence that the Respondent might have used the disputed domain name in connection with a legitimate noncommercial or fair use without intent for commercial gain to misleadingly diver consumers or to tarnish the Complainants' trademark.

The disputed domain name originally resolved to an imposter website containing the Complainants' trademarks and official images, and offering for sale purported BRAUN products at deeply discounted prices. The website was clearly designed to give the false impression that the website was operated by the Complainants or one of their affiliated entities. The Respondent was using the disputed domain name to advertise and offer for sale prima facie counterfeit BRAUN products, in view of the very low prices at which the purported BRAUN goods were offered. The lack of complete and reliable information about the entity operating the Respondent's website also supports the conclusion that the Respondent might have engaged in the sale of counterfeit goods. [WIPO Overview 3.0](#), section 2.13.1.

While the disputed domain name currently resolves to an inactive website after the Complainants' actions, previous panels have maintained that passive holding of a domain name does not constitute a legitimate noncommercial or fair use, especially in case of prior infringing uses. *Teachers Insurance and Annuity Association of America v. Wreaks Communications Group*, WIPO Case No. [D2006-0483](#). The Complainant further asserts that prior panels have found that where a domain name consists of a trademark plus an additional term, such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

The Complainant avers that the disputed domain name was registered and is being used in bad faith. The BRAUN trademark has been registered for many years prior to the registration of the disputed domain name, with numerous panels attributing well-known status to the BRAUN trademark. The fact that prima facie counterfeit BRAUN products were offered for sale on the website to which the disputed domain name resolved is an indication that the Respondent was fully aware of the Complainants and their trademarks. *Swarovski Aktiengesellschaft v. Jun Qiao*, WIPO Case No. [D2013-1617](#). Such use of the Complainant's trademarks and images also clearly demonstrates that the Respondent's purpose in registering and using the disputed domain name was to intentionally attempt to attract Internet users seeking the Complainants' branded products to its own website for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of its website and the goods offered on said website.

Although the disputed domain name is currently pointed to an inactive website, the Complainants argue that the passive holding is still considered bad faith use under the totality of the circumstances of the case. *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

Further indicia of the Respondent's bad faith are that the Respondent indicated inaccurate information in the Whois records, namely an incomplete postal address, as the Registrant's street and street number are missing. This is with the apparent intent to avoid being identified and prosecuted for its infringing registration and use of the disputed domain name.

Accordingly, the Complainants request the transfer of the disputed domain name to the First Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1. Preliminary Issue: Consolidation of Complainants**

The First and Second Complainants submit that they are part of the same corporate group and are therefore affiliates for the purposes of bringing a consolidated administrative proceeding. Panels have generally found that a trademark owner's affiliate company is also considered to have rights for the purposes of standing to file a complaint. [WIPO Overview 3.0](#), section 1.4. In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look to whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation. [WIPO Overview 3.0](#), section 4.11.1

In the instant case, the First Complainant and Second Complainant have a corporate relationship and are both the target of common conduct by the Respondent, as well as common grievances regarding the use of the BRAUN trademark made by the Respondent via the registration and use of the disputed domain name. Moreover, permitting the consolidation would be fair and equitable to the Parties involved, as well as being procedurally efficient to proceed with one Complaint. The Panel therefore grants the request for consolidation of the Complainants and shall hereafter refer to the Complainants jointly as "the Complainant".

### **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 3.0](#), section 1.7.

Based on the evidence submitted, 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 Panel finds that the Complainant's mark BRAUN is clearly 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 a hyphen and "eu", 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.

Additionally, the generic Top-Level Domain ".top" is merely instrumental to the use of the Internet, so the disputed domain name remains confusingly similar despite its inclusion. [WIPO Overview 3.0](#), section 1.11.

Accordingly, 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 Panel notes that the Respondent has not provided any evidence of use, or of demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Rather, after reviewing the evidence submitted, the Panel notes that the disputed domain name had previously directed to an active website containing the Complainant's BRAUN mark, images of Braun products at significantly discounted prices, and without any indication of an affiliation or lack thereof between the Respondent and the Complainant. This shows a clear intent on the part of the Respondent to misleadingly pass it off as the Complainant's website for commercial gain. Without any disclaimer, it also misleads consumers into believing that the Respondent is at least licensed by, or affiliated with the Complainant and/or its trademarks.

With the disputed domain name containing the Complainant's BRAUN trademark, as well as the common geographic term "eu" (for the European Union), there is the additional risk of implied affiliation with the Complainant. Such use cannot constitute fair use, as it effectively impersonates the Complainant and its products or suggests sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1; *The Procter & Gamble Company, Braun GmbH v. 杨冰蓝 (ZHENPING ZHU)*, WIPO Case No. [D2024-3475](#).

Furthermore, the goods offered for sale at the disputed website before the content was taken down reflected prices that were significantly reduced from the Complainant's normal pricing, an indicium of counterfeit goods. Panels have held that the use of a domain name for illegitimate activity, here, claimed sale of counterfeit goods and impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Based on the evidence submitted, the Panel concludes that the Respondent's use does not constitute a bona fide offer of goods or services, nor a legitimate noncommercial or fair use of the disputed domain name.

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.

In the present case, the Panel notes that the Respondent registered the disputed domain name many years after the Complainant acquired trademark rights for BRAUN, both in the European Union (the geographic indication within the disputed domain name), as well as in the United States, which is where the Respondent is located. Prior panels have found, and the evidence presented affirms, that the Complainant's trademark is well-known, intensely used, and distinctive. *ZHENPIN ZHU* case above, and *The Procter & Gamble Company and Braun GmbH v. YongHoon Lee, SoftTech*, WIPO Case No. [D2020-2890](#). As the Respondent registered the disputed domain name that is identical with the BRAUN mark, while adding a geographic term where the Complainant does business, combined with images of the Complainant's goods, it is clear that the Respondent deliberately and consciously targeted the Complainant's trademark rights in BRAUN at the time of the registration. Such registration by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1. In addition to the bad faith evidence discussed above relating to the nature of the disputed domain name incorporating the Complainant's well-known mark plus an additional geographic term, other indicia of bad faith registration and use include: (i) the content of the website clearly targeting the BRAUN trademark and misappropriating the Complainant's images; (ii) the failure to respond to the Complainant's cease and desist letters; and (iii) the registering of the disputed domain name with missing contact address details.

Although the disputed website was changed to resolve to an inactive website, panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes (i) the distinctiveness or reputation of the Complainant's trademark, and the composition of the disputed domain name, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's use of false or incomplete contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the disputed domain name may be put. Combined with the Respondent's prior bad faith use, and reviewing the totality of the circumstances, this Panel finds that the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Additionally, panels have held that the use of a domain name for illegitimate activity, here, claimed sale of counterfeit goods and impersonation/passing off as the Complainant, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name 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 name <braun-eu.top> be transferred to the First Complainant.

*/Gary Saposnik/*

**Gary Saposnik**

Sole Panelist

Date: December 4, 2024