

ADMINISTRATIVE PANEL DECISION

SCALPERS FASHION S.L. v. Leslie Armstrong, Armstrong Leslie, Juan Molony

Case No. D2024-4307

1. The Parties

The Complainant is SCALPERS FASHION S.L., Spain, represented by Baylos 5.0 Legal Advisors, S.L., Spain.

The Respondents are Leslie Armstrong, Armstrong Leslie, and Juan Molony, United States of America (“US”).

2. The Domain Names and Registrar

The disputed domain names <scalperscompany.shop>, and <scalperscompanyss.shop> are 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 October 18, 2024. On October 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On October 22, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Unknown) and contact information in the Complaint.

The Center sent an email communication to the Complainant on October 23, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar(s), requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed amended Complaints October 28, 2024 and on November 3, 2024.

The Center verified that the Complaint together with the amended Complaints 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 Respondents of the Complaint, and the proceedings commenced on November 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 24, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on November 25, 2024.

The Center appointed George R. F. Souter as the sole panelist in this matter on November 28, 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 the proprietor of the trademark SCALPERS, which is a fashion brand in use since 2007. The Complainant operates more than 300 points of sale in Spain and abroad, in addition to Internet trading, and has more than 1,400 employees.

The Complainant has provided the Panel with details of considerable registrations of its SCALPERS trademark internationally, including International trademark registration number 1394643, registered on September 18, 2017.

The Complainant owns the domain name <scalperscompany.com>.

The disputed domain names <scalperscompany.shop> and <scalperscompanyss.shop> were registered on September 14, 2024 and December 3, 2023, respectively, and the Complainant has supplied the Panel with evidence of their use as an online shop, simulating the Complainant's online trading, offering goods for sale in competition with genuine goods traded in by the Complainant.

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 names.

Notably, the Complainant contends that the Respondent is not generally known by any of the disputed domain names, and that the Complainant has never granted permission to the Respondents to use its SCALPERS trademark in connection with a domain name registration, or otherwise.

B. Respondents

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

6. Discussion and Findings

Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.11.2.

As regards to common control, the Panel notes that both disputed domain names (i) are registered with the same Registrar; (ii) use identical naming patterns composed of the Complainant's SCALPERS trademark followed by the term "company"; (iii) use the same generic Top-Level Domain ("gTLD") ".shop"; (iv) use the same email provider "@floridakeyswireless.com"; and (v) resolve to identical websites offering for sale fashion garments and accessories with the Complainant's trademark, using copies of the Complainant's branded products and pictures excerpted from its official website, without being authorized.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

A. Identical or Confusingly Similar

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.

Each of the disputed domain names contain the Complainant's SCALPERS trademark in its entirety, rendering each disputed domain name confusingly similar to the Complainant's trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. None of the additional elements in any of the disputed domain names detract from this finding.

The Panel finds the first element of the Policy has been established in connection with each disputed domain name.

B. Rights or Legitimate Interests

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 names. 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 names such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegitimate activity here, claimed as impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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

C. Registered and Used in Bad Faith

The Panel is convinced that the disputed domain names were registered with the intention of competing unfairly with the Complainant, which justifies a finding of registration in bad faith, and the Panel so finds.

It is well-established in prior decisions under the Policy that the use of a domain name in connection with the sale of goods competing with genuine goods traded in by the Complainant constitutes use of the domain

name in bad faith. In the circumstances of the present case, the Panel considers that the use of the disputed domain names <scalperscompanyss.shop> and <scalperscompany.shop> lead to an unjustified affiliation with the Complainant, and the Panel finds that the disputed domain names are being used in bad faith.

Panels have held that the use of a domain name for illegitimate activity here, claimed as impersonation/passing off 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 names constitutes bad faith under the Policy.

The Panel finds that the Complainant has established the third element of the Policy in respect of the disputed domain names.

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 names <scalperscompanyss.shop>, and <scalperscompany.shop> be transferred to the Complainant.

/George R. F. Souter/

George R. F. Souter

Sole Panelist

Date: December 12, 2024