

ADMINISTRATIVE PANEL DECISION

Gallery Department, LLC v. Awais Bodla

Case No. D2024-4868

1. The Parties

The Complainant is Gallery Department, LLC, United States of America (“United States”), represented by Adelman Matz P.C., United States.

The Respondent is Awais Bodla, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <gallerydeptshirt.shop> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 26, 2024. On November 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 26, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 27, 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 November 29, 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 December 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 22, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 23, 2024.

The Center appointed Kaya Köklü as the sole panelist in this matter on January 8, 2025. 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 a company with its registered seat in the United States. It is active in the field of offering and selling unisex clothing since at least 2014.

The Complainant is the owner of the GALLERY DEPT. trademark. Among various others, the Complainant is the registered owner of the United States Trademark Registration No. 6048485, registered on May 5, 2020, and the United Kingdom Trademark Registration No. UK00801430638, registered on March 27, 2019, both for GALLERY DEPT. and covering protection for inter alia clothing as covered in class 25.

The Complainant also owns and operates its official website at <gallerydept.com>.

The Respondent is reportedly located in the United Kingdom.

The disputed domain name was registered on September 9, 2024.

The screenshots provided by the Complainant show that the disputed domain name resolves to a website in the English language, purportedly offering clothing, in particular t-shirts, at discounted prices. On the website at the disputed domain name and, as far as can be seen on the provided screenshots, also on the offered products and in the product description, the Respondent prominently uses the GALLERY DEPT. trademark of the Complainant in a way that creates a look and feel as if the website was operated by the Complainant. Particularly, the associated website does not provide for any visible disclaimer describing the (lack of) relationship between the Parties. Quite the opposite, many sections falsely indicate the Complainant as the operator of the 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.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel might, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 4.3.

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views stated therein.

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.

The Complainant has shown rights in respect of the GALLERY DEPT. trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

Apart from the dot (“.”), the entirety of the GALLERY DEPT. mark is reproduced within the disputed domain name. The Panel accepts that minor alterations of the trademark do not prevent a finding of confusing similarity between the trademark and the disputed domain name. Hence, the Panel accepts that the removal of the “.”, which is part of the Complainant’s GALLERY DEPT. trademark, from the disputed domain name does not affect a finding of confusing similarity between the disputed domain name and the Complainant’s GALLERY DEPT. trademark. Accordingly, the disputed domain name is confusingly similar to the GALLERY DEPT. mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here “shirt”, 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 GALLERY DEPT. 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. Particularly, the Complainant put forward that the Respondent is neither an authorized business partner of the Complainant nor a licensee of its GALLERY DEPT. trademark and that the Respondent is not commonly known by the terms “gallery dept shirt” or any other similar terms. 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.

In light of the above, the Panel has no doubt that the Respondent was well aware of the Complainant and its GALLERY DEPT. trademark before registering and using the disputed domain name. The Panel particularly notes that the nature of the disputed domain name along with the content of the associated website (reproducing the Complainant's GALLERY DEPT. trademark and offering products bearing that trademark, presumably counterfeit, and featuring a copyright notice "Gallery Dept Official ..."), indicates the Respondent's illegitimate intention to mislead Internet users into believing that the website is operated or endorsed by the Complainant. While the Complainant claims that goods sold on the website at the disputed domain name are counterfeits, it is not necessary for the Panel to make any ultimate determination as to the nature of the goods, as the evidence clearly shows the Respondent has attempted to pass itself off as the Complainant.

In view of the Panel, the Respondent's attempt to impersonate the Complainant results in an illegitimate use that 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 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.

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 the present case, the Panel notes that the Respondent was apparently well aware of the Complainant and its GALLERY DEPT. trademark when registering the disputed domain name. It is obvious to the Panel, that the Respondent has deliberately chosen the disputed domain name to target the Complainant and mislead Internet users.

With respect to the use of the disputed domain name, the Panel further notes that the disputed domain name resolves to a website deliberately creating the false impression to be operated by the Complainant or at least with its authorization.

Panels have held that the use of a domain name for illegitimate activity, here impersonation and claimed sale of counterfeit goods, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

In the light of the above and 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 <gallerydeptshirt.shop> be transferred to the Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: January 22, 2025