

## **ADMINISTRATIVE PANEL DECISION**

Window Products, Inc. d/b/a Cascade Windows v. Jenny Roberts  
Case No. D2022-3944

### **1. The Parties**

Complainant is Window Products, Inc. d/b/a Cascade Windows, United States of America (“United States”), represented by Bracewell L.L.P., United States.

Respondent is Jenny Roberts, United States.

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

The disputed domain name <cascadeswindows.com> (the “Domain Name”) is registered with Hostinger, UAB (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 20, 2022. On October 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 24, 2022, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 Respondent of the Complaint, and the proceedings commenced on October 26, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 15, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on November 16, 2022.

The Center appointed Robert A. Badgley as the sole panelist in this matter on November 21, 2022. 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**

Complainant describes itself as a leading manufacturer of vinyl windows and patio doors for the western United States. Complainant has been in business for 25 years, and claims to have used the mark CASCADE WINDOWS since at least as early as 2010.

Annexed to the Complaint are examples of Complainant advertising its wares under the CASCADE WINDOWS mark since as early as 2015. Also annexed to the Complaint is an industry publication recognizing Complainant as a “Top Window and Door Manufacturer” for several years. Complainant’s sales exceeded USD 100 million in 2019, 2021, and 2022.

Complainant’s main website is located at the domain name <cascaedwindows.com>. The website is well developed and extensively markets Complainant’s CASCADE WINDOWS products.

The Domain Name was registered on July 5, 2022. The Domain Name resolves to a parking page evidently set up by the Registrar.

Complainant alleges as follows:

“Respondent is fraudulently using the disputed domain, WWW.CASCADESWINDOWS.COM, to attempt to wrongfully divert payment from Complainant’s customers by falsely claiming to represent Complainant. Respondent sent emails from the domain to Complainant’s customers. Respondent held herself out to be an employee of Complainant to submit fraudulent payment demands in the name of Complainant. (See Annex 2.) Respondent used the name of one of Complainant’s customers and Complainant’s signature block as part of this fraudulent campaign. Respondent then sent the customers an email stating that there was a “change in payment mode” in an attempt to divert money from the customers to Respondent. Respondent apparently used the domain at issue because it is only one letter off from Complainant’s domain name. See [www.cascaedwindows.com](http://www.cascaedwindows.com) vs. [www.cascadeswindows.com](http://www.cascadeswindows.com). This is a clear attempt to steal money from Complainant’s customers and/or from Complainant. In fact, Respondent stole approximately \$10,000 USD from Complainant’s customer through this illegal scam. Complainant did not authorize these emails.”

A series of emails memorializing this email scam is annexed to the Complaint. The purported street address used in the phony emails is in fact Complainant’s main street address, thus underscoring the intent to deceive the email recipient into believing that an actual Complainant employee is sending the email.

#### **5. Parties’ Contentions**

##### **A. Complainant**

Complainant contends that it has established all three elements required under the Policy for a transfer of the Domain Name.

##### **B. Respondent**

Respondent did not reply to Complainant’s contentions.

#### **6. Discussion and Findings**

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and

- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

#### **A. Identical or Confusingly Similar**

The Panel concludes that Complainant has common law rights in the unregistered trademark CASCADE WINDOWS. Complainant has provided evidence of use of that mark in commerce for several years, as well as evidence that the CASCADE WINDOWS brand enjoys recognition within the windows and doors sector of commerce. Moreover, the fact that Respondent here targeted Complainant's trademark – which is obvious because the sender of the fraudulent emails includes Complainant's actual street address after the email signature line – indicates that Respondent herself views CASCADE WINDOWS as a source identifier for Complainant's products. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.3 ("The fact that a respondent is shown to have been targeting the complainant's mark (...) may support the complainant's assertion that its mark has achieved significance as a source identifier.").

The Panel also concludes that the Domain Name is confusingly similar to this mark. The only difference between the mark and the Domain Name is the "s" at the end of "cascade" in the Domain Name. Notwithstanding this minor difference, the mark CASCADE WINDOWS is clearly recognizable within the Domain Name.

Complainant has established Policy paragraph 4(a)(i).

#### **B. Rights or Legitimate Interests**

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Name. Complainant has put forth evidence that Respondent has used the Domain Name to set up a bogus email address and thereby impersonate one of Complainant's employees, for the purpose of duping Complainant's customers into making payments to Respondent. Respondent has not come forward in this proceeding to dispute this serious and plausible allegation. The Panel finds, on this record, that Respondent is in fact using the Domain Name to perpetrate fraud. Such conduct plainly does not vest Respondent with rights or legitimate interests vis-à-vis the Domain Name.

The Panel concludes that Complainant has established Policy paragraph 4(a)(ii).

### **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation,” are evidence of the registration and use of the Domain Name in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

The Panel concludes that Respondent has registered and used the Domain Names in bad faith. The Panel incorporates its discussion above in the “rights or legitimate interests” section.

The Panel finds it clear that Respondent registered the Domain Name with Complainant and its trademark in mind. Indeed, Respondent’s very aim here is to impersonate Complainant in order to perpetrate a fraud on parties doing business with Complainant. Such misconduct, as laid out in this undisputed record, clearly constitutes bad faith use within the meaning of the above-quoted Policy paragraph 4(b)(iv).

Complainant has established Policy paragraph 4(a)(iii).

### **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 Domain Name <cascaedswindows.com> be transferred to Complainant.

*/Robert A. Badgley/*

**Robert A. Badgley**

Sole Panelist

Date: November 28, 2022