

ADMINISTRATIVE PANEL DECISION

Anastasia Beverly Hills, LLC v. Gret Greta
Case No. D2023-3821

1. The Parties

The Complainant is Anastasia Beverly Hills, LLC, United States of America (“United States” or “U.S.”), represented by Greenberg Traurig, LLP, United States.

The Respondent is Gret Greta, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <anastasabeverlyhills.com> (the “Domain Name”) is registered with Whogohost Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 13, 2023. On September 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 15, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Not available) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 18, 2023, 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 September 28, 2023.

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 September 29, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 19, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 23, 2023.

The Center appointed Olga Zalomiy as the sole panelist in this matter on November 13, 2023. 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 global cosmetics company best known for its eyebrow products and its patented brow-shaping method. Founded in 1997 in Beverly Hills, California, United States. The Complainant owns multiple trademark registrations for the ANASTASIA BEVERLY HILLS mark, including the following:

- U.S. trademark registration number 3503367 for the stylized ANASTASIA BEVERLY HILLS mark, registered on September 23, 2008;
- U.S. trademark registration number 2798069 for the stylized ANASTASIA BEVERLY HILLS mark, registered on December 23, 2003; and
- U.S. trademark registration No. 5021519 for the stylized ANASTASIA BEVERLY HILLS mark, registered on August 16, 2016.

The Complainant owns and operates the domain name <anastasiabeverlyhills.com> where the Complainant's primary website is hosted and is used for all official Complainant's email addresses, including "[...].@anastasiabeverlyhills.com".

The Respondent registered the Domain Name on August 8, 2023. The Domain Name does not direct to any active website. The Respondent used the Domain Name as an email address "[...].@anastasabeverlyhills.com" to contact a third party claiming to be a marketing manager of the Complainant to obtain the party's personal information.

5. Parties' Contentions

A. Complainant

The Complainant's contentions can be summarized as follows:

The Domain Name is confusingly similar to its ANASTASIA BEVERLY HILLS trademark because there is one letter difference between the dominant element of the Domain Name and the Complainant's registered mark.

The Respondent has no right or legitimate interests in respect of the Domain Name because the Complainant did not give the Respondent a permission to register the Domain Name that was confusingly similar to the Complainant's mark. The Respondent is not commonly known by the Domain Name and has not used the Domain Name in connection with *bona fide* offering of goods or services. The Respondent is passively holding the Domain Name containing the Complainant's well-known mark, which does not constitute *bona fide* or legitimate business use. The Respondent used the Domain Name to create a fraudulent email address and sent fraudulent emails to a third party pretending to be the Complainant's marketing manager in an attempt to obtain that party's personal information.

The Complainant claims that Domain Name was registered and is being used in bad faith because the Domain Name was used for email addresses to impersonate official correspondence from the Complainant. The Respondent was aware of the Complainant's well-known trademarks because the Respondent incorporated them into the Domain Name. The Complainant argues that by using the Domain Name and sending fraudulent emails impersonating a Complainant's representative, the Respondent is disrupting business of the Complaint, which shows bad faith use of the Domain Name. The Respondent also provided false registration information at the time of the Domain Name registration.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4(a) of the UDRP, to succeed in this proceeding, the Complainant must prove each of the following elements with respect to the Domain Name:

- (i) the Domain Name 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 has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The evidence on file shows that the Complainant owns trademark registrations for the ANASTASIA BEVERLY HILLS trademark and, as a result, has rights in the ANASTASIA BEVERLY HILLS trademark pursuant to section 1.2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

The Panel finds that the Domain Name is confusingly similar to the Complainant's ANASTASIA BEVERLY HILLS trademark. It is well established that "[a] domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element".¹ In this case, the Domain Name represents a typographical variation of the ANASTASIA BEVERLY HILLS trademark, where the Complainant's mark excludes the letter "i" and the generic Top-Level Domain ("gTLD") ".com". Given that the misspelled ANASTASIA BEVERLY HILLS trademark remains readily identifiable in the Domain Name, and the inclusion of the gTLD ".com" is typically disregarded in the context of the confusing similarity assessment, being a technical requirement of registration², the Panel determines that the Domain Name is indeed confusingly similar to the Complainant's trademark.

Thus, the Panel finds that the first element of the UDRP has been met.

B. Rights or Legitimate Interests

To prove the second UDRP element, the Complainant must make out a *prima facie* case³ in respect of the lack of rights or legitimate interests of the Respondent.

Pursuant to paragraph 4(c) of the Policy, any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on the evidence, shall demonstrate a respondent's rights or legitimate interests in a domain name for the purposes of paragraph 4(a)(ii) of the Policy:

- (i) before any notice to it of the dispute, the Respondent's 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

¹ Section 1.9, [WIPO Overview 3.0](#).

² Section 1.11.1, [WIPO Overview 3.0](#).

³ Section 2.1, [WIPO Overview 3.0](#).

(ii) the Respondent has been commonly known by the Domain Name, even if it has acquired no trademark or service mark rights; or

(iii) the Respondent is 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 accepts that there is no evidence of the Respondent's 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. Prior UDRP panels held that the use of a domain name for illegal activity, such as impersonation, can never confer rights or legitimate interests on a respondent.⁴ The evidence on record demonstrates the Respondent's posed as a purported marketing manager of the Complainant to obtain personal information of a third-party.

In addition, the evidence shows that the Respondent is not commonly known by the Domain Name. Nor is the Respondent making a legitimate noncommercial or fair use of the Domain Name, because it attempted to use the Domain Name for fraudulent activity⁵.

The Panel finds that the Complainant made out a *prima facie* case in respect of the lack of rights or legitimate interests of the Respondent in the Domain Name. Once complainant makes a *prima facie* case, the burden of production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name.⁶ The Respondent has failed to do so. Thus, the Panel finds that in this proceeding the Complainant has satisfied paragraph 4(a)(ii) of the UDRP.

C. Registered and Used in Bad Faith

Under the third UDRP element, the Complainant is required to prove that the Domain Name was registered and is being used in bad faith.

The presented evidence establishes that emails from a non-existent individual, originating from the email address "[...]@anastasabeverlyhills.com," were sent to a third party. The Respondent's email address is identical to the Complainant's official email address with the exception of one letter. These emails falsely represented the sender as someone affiliated with the Complainant, extending an invitation for the third party to partake in a modeling project. During this communication, the Respondent sought specific personal information from the third party, indicating a probable intent to perpetrate fraud and extract monetary gain. Notably, the email's signature line featured the trademark of the Complainant, suggesting the Respondent's awareness of the Complainant and its trademarks at the time of registering the Domain Name.

Based on the Respondent's use of the Domain Name, it is likely that the Respondent registered the Domain Name with the full knowledge of the Complainant and its business.

Paragraph 4(b) of the UDRP sets forth circumstances, which shall be considered evidence of the registration and use of a domain name in bad faith. The examples of bad faith registration and use set forth in paragraph 4(b) of the UDRP are not meant to be exhaustive of all circumstances from which such bad faith may be found. Prior UDRP panels have held that "the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution. [...] Many such cases involve the respondent's use of the domain name to send deceptive emails, e.g., to obtain sensitive or confidential personal information from prospective job applicants, or to solicit payment of fraudulent invoices by the complainant's actual or prospective customers".⁷ The circumstances of this case are similar to such cases because the Respondent used the Domain Name to send deceptive emails to direct payments intended for the Complainant to its bank account.

⁴ Section 2.13.1, [WIPO Overview 3.0](#).

⁵ Section 2.13, [WIPO Overview 3.0](#).

⁶ Section 2.1, [WIPO Overview 3.0](#).

⁷ Section 3.4, [WIPO Overview 3.0](#).

Therefore, the Respondent is using the Domain Name in bad faith.

Therefore, the Panel finds that the third element of the UDRP has been met.

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, <anastasabeverlyhills.com>, be transferred to the Complainant.

/Olga Zalomiy/

Olga Zalomiy

Sole Panelist

Date: November 18, 2023