

ADMINISTRATIVE PANEL DECISION

Riway (Singapore) Pte Ltd v. Host Master, 1337 Services LLC
Case No. D2023-4012

1. The Parties

The Complainant is Riway (Singapore) Pte Ltd, Singapore, represented internally.

The Respondent is Host Master, 1337 Services LLC, Saint Kitts and Nevis.

2. The Domain Name and Registrar

The disputed domain name <purtiershop.net> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 26, 2023, in relation to two domain names including the disputed domain name, and an amended Complaint was filed on October 4, 2023, adding three domain names to the proceedings. On September 26 and October 5, 2023, the Center transmitted by email to the concerned registrars including the Registrar a request for registrar verification in connection with the domain names. On September 26 and October 5, 2023, the concerned registrars transmitted by email to the Center their verification response disclosing registrant and contact information for the domain names which differed from the named Respondent (Tucows Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 9, 2023, providing the registrant and contact information disclosed by the concerned registrars, and inviting the Complainant to submit an amendment to the Complaint adding the registrar-disclosed registrants as formal Respondents and provide relevant arguments or evidence demonstrating that all named registrants are, in fact, the same entity and/or that all domain names are under common control; and/or indicate which domain names will no longer be included in the current Complaint. The Complainant filed an amended Complaint on October 14, 2023.¹

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”).

¹ The Complainant removed four domain names from the Complaint upon receipt of the Center’s email regarding multiple underlying registrants and the Center’s email regarding the language of the proceedings.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on October 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 7, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 8, 2023.

The Center appointed Tuukka Airaksinen as the sole panelist in this matter on November 22, 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 Singaporean company with presence throughout South-East Asia. It is offering beauty and health supplement products through its authorized distributors under the trademark PURTIER. The Complainant's trademark has been used since 2008 and is registered in various countries, as follows: Singapore under No. T13004201 (Combined), registered July 4, 2013; Malaysia under No. 2012013216 (Stylized) as of August 2, 2012; and Canada under No. TMA930128, registered February 29, 2016.

The Complainant's official website is at <pur tier.com>.

The disputed domain name was registered on October 4, 2022. It resolves to a website offering beauty and health products under the trademark PURTIER Placenta.

5. Parties' Contentions

A. Complainant

The disputed domain name is confusingly similar to the Complainant's trademark. The Complainant's trademark is included in the disputed domain name in its entirety and is used to sell identical goods. The mere addition of the descriptive name "shop" is not sufficient to avoid the finding of confusing similarity between the disputed domain name and the Complainant's trademark.

There is no relationship between the Complainant and the Respondent giving rise to any authorization or license or other right for the Respondent to use the disputed domain name. The Respondent is not affiliated with the Complainant and is not commonly known by the disputed domain name. There is no evidence of any demonstratable preparations by the Respondent to use the disputed domain name for the *bona fide* offering of goods, nor is the Respondent making legitimate noncommercial or fair use of the disputed domain name.

The website to which the disputed domain name resolves gives the impression that it is authorized by the Complainant, which is not true. There is no doubt that the Respondent is well aware of the Complainant and that it has sought to profit from the disputed domain name by creating an aura of affiliation with the Complainant.

The registration and use of the disputed domain name disrupt the Complainant's business by diverting Internet traffic from the Complainant's website to the Respondent's website. Furthermore, the Respondent's website includes some false information of the Complainant's products.

It is inconceivable that the Respondent would not have been aware of the Complainant when registering the disputed domain name. The Respondent has targeted the Complainant. The Respondent also failed to identify itself by using a privacy service.

B. Respondent

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

6. Discussion and Findings

In order to obtain the transfer of a domain name, a complainant must prove the three elements of paragraph 4(a) of the Policy, regardless of whether the respondent files a response to the complaint or not. The first element is that the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights. The second element a complainant must prove is that the respondent has no rights or legitimate interests in respect of the domain name. The third element a complainant must establish is that the domain name has been registered and is being used in bad faith.

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds 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 the entirety of the mark is 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, "shop" 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 mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, 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.

Furthermore, it results from the evidence in the record that the Respondent does not make use of the disputed domain name in connection with a *bona fide* offering of goods or services, nor does it make a legitimate, noncommercial or fair use of the disputed domain name without intent for commercial gain. The disputed domain name resolves to a website offering for sale products bearing the PURTIER trademark. The Complainant argues that they do not sell their products on any website or internet platform, and strongly prohibits their authorized distributors from selling their products via any online means. The Panel notes that even if this were a case of unauthorized resale, the composition of the disputed domain name, wholly incorporating the Complainant's trademark with the term "shop", coupled with the use of the disputed domain name resolving to a website displaying the Complainant's trademark and products, as well the failure to accurately and prominently disclose the lack of relationship with the Complainant, gives the impression that the website at the disputed domain name is hosted or authorized by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, 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, considering that the disputed domain name is confusingly similar to the Complainant's trademark and is used to sell competing or possibly infringing goods, the Panel considers that the Respondent must have been aware of the Complainant when registering the disputed domain name.

The Complainant states that false information was provided in relation to the products bearing the PURTIER Marks on the website of the disputed domain name where such products were never approved as a "live stem cell therapy", among others, with the intention to deceive consumers into believing the false claims of the Complainant's products, which is evidence of bad faith.

Furthermore, the sale of competing or infringing goods means that the disputed domain name has been intentionally used to attract, for commercial gain, Internet users to the Complainant's website by creating a likelihood of confusion with the Complainant's trademark. In light of the above, the Panel finds that the disputed domain name has been registered and is being used in bad faith.

Based on the available record, 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 <purriershop.net> be transferred to the Complainant.

/Tuukka Airaksinen/

Tuukka Airaksinen

Sole Panelist

Date: December 10, 2023