

## ADMINISTRATIVE PANEL DECISION

The Hand Group LLC v. Virginia Hagan  
Case No. D2024-0792

### 1. The Parties

Complainant is The Hand Group LLC, United States of America (“United States”), represented by Smith, Gambrell & Russell, LLP, United States.

Respondent is Virginia Hagan, United States.

### 2. The Domain Name and Registrar

The disputed domain name <thedopesthlc.com> (the “Domain Name”) is registered with NameSilo, LLC (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 21, 2024. On February 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 22, 2024, 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 (unknown, and Redacted for Privacy, PrivacyGuardian.org llc, as per Annex 1 to the Complaint) and contact information in the Complaint. The Center sent an email to Complainant on February 23, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on February 23, 2024.

The Center verified that the Complaint together with 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 Respondent of the Complaint, and the proceedings commenced on March 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 26, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on April 2, 2024.

The Center appointed Robert A. Badgley as the sole panelist in this matter on April 9, 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**

According to the Complaint (with annexes corroborating these allegations):

“Complainant The Hand Group LLC owns the trademark THE DOPEST which Complainant has used since December 17, 2021 in connection with the sale of chocolate bars and gummies containing or derived from hemp, vapes and oils and smoking articles, and liquid HHCP syrups. Complainant has filed an application in the United States Patent and Trademark Office (“USPTO”) on November 1, 2021 to register THE DOPEST, Serial No. 97103108. [...] The USPTO issued a Notice of Allowance for the application on November 7, 2023.”

Complainant owns the domain name <thedopestshop.com> registered on October 2, 2021, which it uses to host a website offering its wares for sale.

The Domain Name was registered on September 18, 2023. The Domain Name resolves to a website almost identical to Complainant’s commercial website, and even lifting photos taken from Complainant’s website. Respondent’s site features the banner: “Welcome to The Dopest Shop – Your Ultimate Destination for HHC Products.” Respondent’s website purports to offer for sale Complainant’s products. According to Complainant, the website to which the Domain Name resolves is “a slavish copy and knock-off of Complainant’s website.”

#### **5. Parties’ Contentions**

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

Complainant contends that it has satisfied each of the 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**

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 Complainant’s trademark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 1.7.

The Panel notes that a pending trademark application would not by itself establish trademark rights within the meaning of UDRP paragraph 4(a)(i), instead Complainant would have to show standing through unregistered or common law trademark rights for purposes of the UDRP. [WIPO Overview 3.0](#), sections 1.1.4, and 1.3.

The Panel concludes that Complainant has rights in the unregistered trademark THE DOPEST through use demonstrated in the record. Additionally, the Panel notes that the content of the website to which the Domain Name resolves, which apparently copies that of Complainant's website, showing that Respondent has been targeting Complainant, and Complainant's unregistered trademark through the Domain Name. Therefore, the Panel finds that use of the Domain Name supports the Panel's finding of Complainant having rights in the unregistered trademark THE DOPEST. [WIPO Overview 3.0](#), section 1.3.

The Panel also concludes that the Domain Name is confusingly similar to that mark. The Domain Name entirely incorporates the THE DOPEST mark and adds the letters "hhc." The Panel concludes that the mark remains clearly recognizable within the Domain Name despite these additional letters.

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.

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 often primarily within the knowledge or control of the respondent. Thus, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production 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.

The Panel concludes that Respondent lacks rights or legitimate interests in connection with the Domain Name. Respondent has not come forward to dispute any of Complainant's allegations and evidence, and it is undisputed that Complainant has not authorized Respondent to use its THE DOPEST mark in a domain name or otherwise.

It is clear from this undisputed record that Respondent targeted Complainant, and Complainant's unregistered mark. Respondent's website liberally appropriates content from Complainant's site and Respondent purports to sell Complainant's products at her website. It is plausibly alleged and undisputed that Respondent has pirated content from Complainant's site. Respondent's site also claims to be the "Ultimate Destination" for "HHC Products," a claim which falsely suggests an affiliation with Complainant. Such conduct does not permit a finding that Respondent has rights or legitimate interests vis-à-vis the Domain Name.

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 registered and used the Domain Name in bad faith under the Policy. The Panel incorporates its discussion above in the “Rights or Legitimate Interests” section. On this record, the Panel finds it clear that Respondent targeted Complainant, and Complainant’s unregistered mark when registering the Domain Name, and has used the Domain Name for illegitimate commercial gain by seeking to divert Internet traffic for commercial gain by free-riding on Complainant’s unregistered mark. This constitutes bad faith registration and 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 <thedopesthhc.com> be transferred to Complainant.

*/Robert A. Badgley/*

**Robert A. Badgley**

Sole Panelist

Date: April 23, 2024