

ADMINISTRATIVE PANEL DECISION

Natura Cosméticos S/A v. Contact Privacy Inc. Customer 12410804140 /
BFGO, BFGO
Case No. D2022-0347

1. The Parties

The Complainant is Natura Cosméticos S/A, Brazil, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Contact Privacy Inc. Customer 12410804140, Canada / BFGO, BFGO, Mexico.

2. The Domain Name and Registrar

The disputed domain name <natura.store> is registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 1, 2022. On February 1, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 1, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on February 2, 2022, 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 February 4, 2022. On February 4, 2022, the Respondent sent an informal email communication to the Center.

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 February 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 28, 2022. The Respondent did not submit any formal response. Accordingly, the Center notified the Respondent’s default on March 2, 2022.

The Center appointed Edoardo Fano as the sole panelist in this matter on March 4, 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.

The Panel has not received any requests from the Complainant or the Respondent regarding further submissions, waivers or extensions of deadlines, and the Panel has not found it necessary to request any further information from the Parties.

Having reviewed the communication records in the case file provided by the Center, the Panel finds that the Center has discharged its responsibility under the Rules, paragraph 2(a), "to employ reasonably available means calculated to achieve actual notice to the Respondent". Therefore, the Panel shall issue its Decision based upon the Complaint, the Policy, the Rules and the Supplemental Rules and without the benefit of a formal response from the Respondent.

The language of the proceeding is English, being the language of the Registration Agreement, as per paragraph 11(a) of the Rules.

4. Factual Background

The Complainant is Natura Cosméticos S/A, a Brazilian company operating in the field of cosmetics, fragrances and toilet products, owning several trademark registrations for NATURA, among which:

- Brazilian Trademark Registration No. 815082649 for NATURA, registered on June 21, 1994;
- Mexican Trademark Registration No. 487408 for NATURA, registered on April 17, 1995;
- United States of America Trademark Registration No. 2164917 for NATURA, registered on June 16, 1998;
- European Union Trade Mark Registration No. 004303426 for NATURA, registered on March 14, 2007.

The Complainant operates on the Internet with several domain names including <natura.net>, which redirects to "www.natura.com.br", as well as with many other generic Top-Level Domains ("gTLDs") and country code Top-Level Domains ("ccTLDs") including the trademark NATURA.

The Complainant provided evidence in support of the above.

According to the Whois records, the disputed domain name was registered on August 7, 2021, and it resolves to a website offering Complainant's products for sale.

On October 25, November 4, and November 15, 2021, the Complainant sent cease-and-desist letters to the Respondent, without receiving any reply.

5. Parties' Contentions

A. Complainant

The Complainant states that the disputed domain name <natura.store> is identical to its trademark NATURA.

Moreover, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name since it has not been authorized by the Complainant to register the disputed domain name or to use its trademark within the disputed domain name; it is not commonly known by the disputed domain name; and it is not making either a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name. The Respondent, in the website at the disputed domain name, is offering Complainant's products for sale without accurately disclosing the absence of a relationship with the Complainant.

The Complainant submits that the Respondent has registered the disputed domain name in bad faith, since the Complainant's trademark NATURA is distinctive and internationally known in the field of cosmetics, fragrances and toilet products. Therefore, the Respondent targeted the Complainant's trademark at the time of registration of the disputed domain name and the Complainant contends that the use of the disputed domain name with the purpose of intentionally attempting to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's trademark as to the disputed domain name's source, sponsorship, affiliation or endorsement, qualifies as bad faith registration and use.

B. Respondent

The Respondent has made no formal reply to the Complainant's contentions.

A respondent is not obliged to participate in a proceeding under the Policy, but if it fails to do so, reasonable facts asserted by a complainant may be taken as true, and appropriate inferences, in accordance with paragraph 14(b) of the Rules, may be drawn (see, e.g., *Reuters Limited v. Global Net 2000, Inc.*, WIPO Case No. [D2000-0441](#); *Microsoft Corporation v. Freak Films Oy*, WIPO Case No. [D2003-0109](#); *SSL International PLC v. Mark Freeman*, WIPO Case No. [D2000-1080](#); *Altavista Company v. Grandtotal Finances Limited et. al.*, WIPO Case No. [D2000-0848](#); *Confédération Nationale du Crédit Mutuel, Caisse Fédérale du Crédit Mutuel Nord Europe v. Marketing Total S.A.*, WIPO Case No. [D2007-0288](#)).

In this case, the Respondent submitted one informal email communication on February 4, 2022, stating the following:

"Hello, We are reviewing your request and we will respond by February 6th. Regards,"

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements, which the Complainant must satisfy in order to succeed:

- (i) the disputed 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that the Complainant is the owner of the trademark NATURA both by registration and acquired reputation and that the disputed domain name <natura.store> is identical to the trademark NATURA.

It is well accepted that a gTLD, in this case ".store", is ignored when assessing the similarity between a trademark and a domain name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.11.

The Panel finds that the Complainant has therefore met its burden of proving that the disputed domain name is identical to the Complainant's trademark, pursuant to the Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

Paragraph 4(a)(ii) of the Policy requires the Complainant to prove that the Respondent has no rights or legitimate interests in the disputed domain name.

The Respondent may establish a right or legitimate interest in the disputed domain name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following circumstances, in particular but without limitation:

- “(i) before any notice to you 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 (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 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.”

According to paragraph 4(a) of the Policy, the Complainant has the burden of proving the three elements of the Policy. However, satisfying the burden of proving a lack of the Respondent’s rights or legitimate interests in respect of the disputed domain name according to paragraph 4(a)(ii) of the Policy is potentially quite difficult, since proving a negative circumstance is always more complicated than establishing a positive one. As such, it is well accepted that it is sufficient for the Complainant to make a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name in order to shift the burden of production on the Respondent. If the Respondent fails to demonstrate rights or legitimate interests in the disputed domain name in accordance with paragraph 4(c) of the Policy or on any other basis, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Complainant in its Complaint, and as set out above, has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. It asserts that the Respondent is not currently associated with the Complainant in any way, is not commonly known by the disputed domain name, and is not making a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name: the Respondent, in the website at the disputed domain name, is offering Complainant’s products for sale without accurately disclosing the absence of a relationship with the Complainant.

The *prima facie* case presented by the Complainant is enough to shift the burden of production to the Respondent to demonstrate that it has rights or legitimate interests in the disputed domain name. However, the Respondent has failed to file a formal response in accordance with the Rules, paragraph 5, and has not rebutted the Complainant’s *prima facie* case. The Respondent has not presented any evidence of any rights or legitimate interests it may have in the disputed domain name, and the Panel is unable to establish any such rights or legitimate interests on the basis of the evidence in front of it.

Should the Complainant’s products sold on the website to which the disputed domain name is redirecting Internet users be genuine products, legitimately acquired by the Respondent, the question that would arise is whether the Respondent would therefore have a legitimate interest in using the disputed domain name that is identical to the Complainant’s trademark in circumstances that are likely to give rise to confusion.

The issue of resellers is mainly summarized in the [WIPO Overview 3.0](#), section 2.8.1:

“(…) resellers, distributors, or service providers using a domain name containing the complainant’s trademark to undertake sales or repairs related to the complainant’s goods or services may be making a *bona fide* offering of goods and services and thus have a legitimate interest in such domain name. Outlined in the “Okidata test”, the following cumulative requirements will be applied in the specific conditions of a UDRP case:

- (i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the site to sell only the trademarked goods or services;
- (iii) the site must accurately and prominently disclose the registrant’s relationship with the trademark holder; and

(iv) the respondent must not try to ‘corner the market’ in domain names that reflect the trademark.”

This summary is based on the UDRP decision in *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. D2001-0903.

However, the website at the disputed domain name does not have a disclaimer, and is making no reference to the lack of relationship between the Respondent and the Complainant. Thus, the Panel is of the opinion that this is sufficient to support the allegation of lack of rights or legitimate interests of the Respondent in relation to the disputed domain name.

Moreover, the Panel finds that the composition of the disputed domain name along with its use offering (purportedly) the Complainant’s products carries a risk of implied affiliation.

The Panel therefore finds that paragraph 4(a)(ii) of the Policy has been satisfied.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that “[...] for the purposes of paragraph 4(a)(iii) of the Policy, the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

(i) circumstances indicating that [the Respondent has] registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant who is the owner of the trademark or service mark or to a competitor of the Complainant, for valuable consideration in excess of its documented out-of-pocket costs directly related to the domain name; or

(ii) that [the 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 [the Respondent has] engaged in a pattern of such conduct; or

(iii) that [the 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, [the Respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the Respondent’s] website or other online location, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of [the Respondent’s] website or location or of a product or service on [the Respondent’s] website or location”.

Regarding the registration in bad faith of the disputed domain name, the reputation of the Complainant’s trademark NATURA in the field of cosmetics, fragrances and toilet products is clearly established and the Panel finds that the Respondent likely knew of the Complainant and deliberately registered the disputed domain name, especially because the disputed domain name resolves to a website where Complainant’s products are (purportedly) offered for sale.

The Panel further notes that the disputed domain name is also used in bad faith since on the relevant website Complainant’s products are (purportedly) offered for sale, with the purpose of intentionally attempting to create a likelihood of confusion with the Complainant’s trademark as to the disputed domain name’s source, sponsorship, affiliation or endorsement.

The above suggests to the Panel that the Respondent intentionally registered and is using the disputed domain name in order to create confusion with the Complainant’s trademark and attract, for commercial gain, Internet users to its website in accordance with paragraph 4(b)(iv) of the Policy.

The Panel finds that the Complainant has presented evidence to satisfy its burden of proof with respect to the issue of whether the Respondent has registered and is using the disputed domain name in bad faith.

The Panel therefore finds that paragraph 4(a)(iii) of the Policy has been satisfied.

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 <natura.store> be transferred to the Complainant.

/Edoardo Fano/

Edoardo Fano

Sole Panelist

Date: March 14, 2022