

ADMINISTRATIVE PANEL DECISION

Muitas Ltd v. Super Privacy Service LTD c/o Dynadot / Wu Yu
Case No. D2022-0452

1. The Parties

The Complainant is Muitas Ltd, United States of America (“U.S.”), represented by Silverstein Legal, U.S.

The Respondent is Super Privacy Service LTD c/o Dynadot, U.S. / Wu Yu, China.

2. The Domain Name and Registrar

The disputed domain name <primalfetishclips4sale.com> is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 9, 2022. On February 10, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 11, 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 15, 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 amendment to the Complaint on February 15, 2022.

The Center verified that the Complaint together with the amendment to 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 the Respondent of the Complaint, and the proceedings commenced on February 16, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 8, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 9, 2022.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on March 11, 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

The Complainant owns and operates the website at the domain name “www.clips4sale.com” and has used its domain for several years to provide a platform that allows users to post and sell audiovisual content through clip stores on the world wide web.

The Complainant has proven to be the owner of the CLIPS4SALE and CLIPS4SALE.COM trademarks.

The Complainant is, *inter alia*, the owner of:

U.S. trademark CLIPS4SALE.COM, registration number 3,508,680, registered on September 30, 2008 in Class 41 for entertainment services, namely, providing a website featuring downloadable film clips, photographs, and other multimedia material.

U.S. trademark CLIPS4SALE, registration number 3,554,200, registered on December 30, 2008 in Class 41 for entertainment services, namely, providing a website featuring musical performances, musical videos, related film clips, photographs, and other multimedia materials.

The Complainant, or its predecessor-in-interest, has registered rights in the above trademarks as early as January 27, 2006, and has used these trademarks since July 21, 2002.

The disputed domain name was registered on January 22, 2022.

The Complainant’s trademarks registrations predate the registration of the disputed domain name.

The disputed domain resolves, through redirection, to a rotating set of third party websites that are unaffiliated with the Complainant, one of which provides pay-per-click links that refer to adult websites.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the CLIPS4SALE and CLIPS4SALE.COM trademarks, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name has been registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

In order for the Complainant to obtain a transfer of the disputed domain name, paragraphs 4(a)(i)-(iii) of the Policy require that the Complainant must demonstrate to the Panel that:

- (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 Complainant has established rights in the CLIPS4SALE.COM and CLIPS4SALE trademarks.

Here the disputed domain name adds the words “primal” and “fetish” to the CLIPS4SALE trademark.

This Panel agrees with the Complainant’s view that the CLIPS4SALE trademark is clearly recognizable and that the addition of the terms “primal” and “fetish” do not avoid a finding of confusing similarity.

See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8: “Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.” Furthermore, the applicable generic Top-Level Domain (“gTLD”) “.com” is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

This Panel finds that the Complainant has made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Respondent does not appear to be commonly known by the name “primalfetishclips4sale” or by any similar name. The Respondent has no connection or affiliation with the Complainant and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant’s trademark. Moreover, the Respondent does not appear to make any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a *bona fide* offering of goods or services. The Respondent therefore cannot claim a right to use the disputed domain name under fair use, since it includes the Complainant’s trademarks and the additional terms “primal” and “fetish”, given that the Complainant’s <clips4sale.com> is a fetish website and one of its studios uses the term “primal”, thus creating a risk of implied affiliation. The Respondent has not come forward with any explanation that demonstrates any rights or legitimate interests in the disputed domain name.

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

C. Registered and Used in Bad Faith

The Panel, on the basis of the evidence presented, accepts and agrees with the Complainant’s contentions that the disputed domain name was registered and has been used in bad faith.

The CLIPS4SALE and CLIPS4SALE.COM trademarks have been registered and used for several years.

The addition to the Complainant’s trademarks of the terms “primal” and “fetish”, given that the Complainant’s <clips4sale.com> is a fetish website and one of its studios uses the term “primal”, is suggestive of Respondent’s intent to mislead Internet users regarding the affiliation of the disputed domain name to the Complainant.

Consequently, the Panel finds that the Respondent knew of the Complainant’s mark and intentionally intended to create an association with the Complainant and its business at the time of registration of the disputed domain name.

The Respondent's use of the Complainant's trademarks to redirect Internet users to rotating third-party websites, one of which serves up pay-per-click links that refer to adult websites for which the Respondent presumably receives a commission, constitutes bad-faith registration and use of the disputed domain name.

Finally, the Panel notes that according to the Complainant's assertion not rebuked by the Respondent, PRIMAL FETISH is a third party trademark. If this is correct, the fact that the disputed domain name combines two registered trademarks belonging to third parties is further proof that, on the balance of probabilities, the Respondent registered and used the disputed domain name with the intent to profit from the reputation of these trademarks.

Accordingly, the Panel finds, on the basis of the evidence presented, that the Respondent registered and is using the disputed domain name in bad faith.

Therefore, the Complainant has satisfied paragraph 4(a)(iii) 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, <primalfetishclips4sale.com> be transferred to the Complainant.

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: March 24, 2022