

ADMINISTRATIVE PANEL DECISION

Jemella Group Limited v. Client Care, Web Commerce Communications Limited and Milica Preljevic
Case No. D2023-2445

1. The Parties

The Complainant is Jemella Group Limited, United Kingdom, represented by Studio Barbero, Italy.

The Respondents are Client Care, Web Commerce Communications Limited, Malaysia and Milica Preljevic, Germany.

2. The Domain Names and Registrar

The disputed domain names <ghdfactoryoutletuk.com>, <ghd-belgium.com>, <ghdfactoryoutletus.com>, <ghdglattejerntilbud.com>, <ghdgoldschweiz.com>, <ghdgoldsuomi.com>, <ghd-ireland.com>, <ghditalia.com>, <ghdnetherlands.com>, <ghdnzshops.com>, <ghdplatinumaustralia.com>, <ghdportugal.com>, <ghd-romania.com>, and <ghd-uae.com>, and <rettetangghdnorge.com> are registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

The disputed domain name <ghdcolombia.com.co> is registered with 1API GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 6, 2023. On June 6, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On June 6, 2023, the Registrar, 1API GmbH, transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name <ghdcolombia.com.co> which differed from the named Respondent (Not Disclosed) and contact information in the Complaint. On June 7, 2023, the Registrar, Alibaba.com Singapore E-Commerce Private Limited, transmitted by email to the Center its verification response disclosing registrant and contact information for the rest of the disputed domain names which differed from the named Respondent (Not Disclosed) and contact information in the Complaint.

The Center sent an email communication to the Complainant on June 13, 2023 providing the registrants 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 June 14, 2023.

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 Respondents of the Complaint, and the proceedings commenced on June 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 13, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on July 18, 2023. The Center appointed Zoltán Takács as the sole panelist in this matter on July 25, 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.

The language of this administrative proceeding is English, that being the language of the registration agreements.

4. Factual Background

The Complainant has been manufacturing and marketing the GHD (acronym for Good Hair Day) branded hairdryers, curling tongs, and other hairstyle products since 2001.

The Complainant’s products are primarily sold in Europe, Australia, South Africa, and North America, with the brand turnover of over USD 200 million in 2021.

The Complainant is among others owner of the European Union Trademark Registration No. 002860518 for the word mark GHD, registered since April 21, 2004 for variety of goods, mostly hair care and hair styling products.

The Complainant is owner of the domain name <ghdhair.com>, which was registered on July 10, 2002 and which resolves to its principal website used for promotion of its GHD brand and online sale of its products.

The disputed domain names were registered between March 9 and May 18, 2023 and except in case of the disputed domain name <ghditalia.com> have been resolving to different language websites with identical layouts displaying the Complainant’s GHD trademark and signature logo, offering for sale what purport to be the Complainant’s GHD branded products at discounted prices.

The disputed domain name <ghditalia.com>, which at the date of this decision was not resolving to an active website used to redirect to a website displaying the Complainant’s GHD trademark, signature logo and imagery and offer for sale what purported to be the Complainant’s GHD branded products at discounted prices.

5. Parties’ Contentions

A. Complainant

The Complainant contends that since all the disputed domain names entirely reproduce its GHD trademark, the mere addition of various non-distinctive elements to the trademark referring to countries, online sale, and the Complainant’s products and business does not sufficiently distinguish the disputed domain names from the trademark.

The Complainant states that the Respondents have no rights or legitimate interests in respect of the disputed domain names and are unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii) or (iii) of the Policy.

The Complainant contends that the Respondents' use of the disputed domain names for websites that prominently display the Complainant's GHD trademark and signature logo, and images of its products indicate that the Respondents were aware of the Complainant's trademark at the time of registrations and have obtained them with clear intent of targeting the Complainant and its GHD trademark. The Complainant alleges that in view of the very low prices the GHD branded goods offered for sale at the Respondents' websites are obviously counterfeit.

The Complainant requests that the disputed domain names be transferred from the Respondents to the Complainant.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules requires that the Panel's decision be made "on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that;

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (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.

6.1 Procedural Matter – Multiple Domain Names and Respondents

The Complaint was filed regarding sixteen domain names and two domain name holders and the Complainant requested consolidation of its claims.

Under paragraph 3(c) of the Rules "the Complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder".

Under paragraph 10(e) of the Rules, UDRP panels have the authority to consolidate multiple domain name disputes involving differently named domain name holders.

According to section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), "where a complaint is filed against multiple respondents, panel look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties".

The evidence submitted by the Complainant in support of its request for consolidation strongly suggests that there is a common person or entity holding interests in all the disputed domain names.

The disputed domain names at issue entirely incorporate the Complainant's GHD trademark with the mere addition of generic, and/or descriptive, and/or geographical terms. The disputed domain names have all been used in connection with the websites displaying the same imagery, offering for sale what purport to be the Complainant's GHD branded products at discounted prices.

The closely similar factual background regarding registration and use of the disputed domain names in view of the Panel justifies hearing and determining them in a single administrative proceeding in order to avoid incurring additional unnecessary expenses for the parties.

The Panel therefore allows the consolidation as requested by the Complainant pursuant to paragraph 10(e) of the Rules.

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 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

Furthermore, the Panel finds the entirety of the mark is reproduced within the disputed domain names.

The difference between the trademark and the disputed domain names is the mere addition of hyphens and:

- various non-distinctive elements such as terms "outlet", "shops", "platinum", "gold" "tilbud" ("offer" in Danish), "glattejern" ("flat irons" in Danish), "rettetang" ("flat irons" in Norwegian),
- country names such as "Norge", "Suomi", "Belgium", "Ireland", "Romania", "Colombia", "Schweiz", "Netherland", "Australia", "Portugal" and "Italia",
- two letter international country codes such as "uk" (United Kingdom) "uae" (United Arab Emirates), "nz" (New Zealand) and "us" (United States of America), and the
- term "actory" which is a misspell for the word "factory".

The above additions to the trademark in the disputed domain names in view of the Panel do not prevent a finding of confusing similarity under the first element.

The applicable generic Top-Level Domains ("gTLD") in the disputed domain names are viewed as a standard registration requirement and as such are generally disregarded under the first element test. [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds that 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.

While 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 often impossible 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. 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 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 names.

The Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has they made demonstrable preparations to use, the disputed domain names or a name corresponding to the disputed domain names in connection with a *bona fide* offering of goods or services. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.;
- the Respondent (as an individual, business, or other organization) has not been commonly known by the disputed domain names. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3;
- the Respondent is not making a legitimate noncommercial or fair use of the disputed domain names, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4, and
- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the disputed domain names.

There is no evidence on the case file and is therefore unclear to the Panel whether the Respondent is actually selling the GHD branded products on their websites or are trying to defraud consumers in some other way.

However, regardless of the Respondent's intentions, the websites at the disputed domain names effectively impersonate the Complainant, as the Respondents are prominently and extensively using on their websites the Complainant's trademark, signature logo, and overall imagery.

UDRP panels have categorically held that the use of a domain name for illegal activity, such as impersonation/passing of, or other types of fraud can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

The Panel considers that the record of this case reflects that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its web site or other on-line locations, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site or location or of a product or service on the Respondent's web site or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

The Complainant's GHD trademark is distinctive for the corresponding goods, namely hair care and hair styling products and predates the registration of the disputed domain names by years.

The Respondent reproduced the Complainant's trademark in the disputed domain names and have been using the Complainant's signature logo, imagery, and product photos on the websites at the disputed domain

names. Thus, the Respondent obviously had full knowledge of the Complainant's business and the GHD trademark at the time of registration of the disputed domain names and had registered them in order to target the Complainant and its trademark through impersonation of false association. [WIPO Overview 3.0](#), section 3.2.1.

The fact that at the time of rendering of this decision the disputed domain name <ghditalia.com> did not resolve to an active website does not alter the Panel's findings. [WIPO Overview 3.0](#), section 3.3.

Based on the available record, the Panel finds the third element of the Policy has been established.

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 names, <ghdfactoryoutletuk.com>, <ghd-belgium.com>, <ghdcolombia.com.co>, <ghdfactoryoutletus.com>, <ghdglattejerntilbud.com>, <ghdgoldschweiz.com>, <ghdgoldsuomi.com>, <ghd-ireland.com>, <ghditalia.com>, <ghdnetherlands.com>, <ghdnzshops.com>, <ghdplatinumaustralia.com>, <ghdportugal.com>, <ghd-romania.com>, <ghd-uae.com> and <rettetangghdnorge.com> be transferred to the Complainant.

/Zoltán Takács/

Zoltán Takács

Sole Panelist

Date: August 8, 2023