

## **ADMINISTRATIVE PANEL DECISION**

Edgewell Personal Care Brands, LLC v. Cherly DAMUS, Schicklady  
Case No. D2024-0617

### **1. The Parties**

Complainant is Edgewell Personal Care Brands, LLC, United States of America (“United States” or “US”), represented internally.

Respondent is Cherly DAMUS, Schicklady, US.

### **2. The Domain Name and Registrar**

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 9, 2024. On February 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 12, 2024, 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 (Contact Privacy Inc. Customer 0162949245) and contact information in the Complaint. The Center sent an email communication to Complainant on February 21, 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 22, 2024.

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 Respondent of the Complaint, and the proceedings commenced on February 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 23, 2024. Respondent did not submit any formal response. Respondent sent informal communications described below on March 5 and 7 and on May 10, 2024. The proceedings were suspended on the Parties’ request as of March 8, 2024. At Complainant’s request, the Center sent the notifications of extension to suspension to the Parties on April 9, 2024, and May 13, 2024. On July 17, 2024,

at Complainant's request, the proceedings have been reinstated. Accordingly, the Center notified Respondent with Commencement of Panel Appointment Process on June 24, 2024.

The Center appointed Timothy D. Casey as the sole panelist in this matter on July 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

Complainant is a global company providing shave, grooming, sun care, skin care, and feminine care products.

Complainant has numerous registrations around the world for trademarks that include SCHICK (the "SCHICK Marks") as an element of the trademarks, including:

Mark	Jurisdiction	Class(es)	Registration Nos.	Registration Date
SCHICK	United States	8	788,722	April 27, 1965
SCHICK Design	United States	8	1,796,254	October 5, 1993
SCHICK	United States	3	3,795,146	May 25, 2010
LADY SCHICK	France	3, 7, 8, 9, 10, 11	1,436,713	April 29, 1988

Complainant also owns the domain name <schick.com> that resolves to one or more websites at which a range of products under the SCHICK Marks are displayed.

The disputed domain name was registered on November 3, 2021, and at least as of December 26, 2023, the disputed domain name resolved to a website bearing the name "Schcklady" and marketing hair growth oil and other products. On November 5, 2021, Articles of Incorporation were filed in the State of Florida for SCHICKLADY LLC and naming Respondent as the registered agent.

Complainant provided evidence that on December 23, 2021, with a follow up on February 15, 2022, Complainant's legal representative wrote to the email address listed on Respondent's website and demanded that Respondent cease use of the SHICKLADY mark and the disputed domain name. On March 21, 2022, Cherly Jean Louis (a name that is similar to but differs from Respondent) responded from the email address of "[Redacted]@yahoo.fr" noting differences between the SCHICK Marks and the SHICKLADY mark and promising to analyze Complainant's letter and respond by March 29, 2022. On March 29, 2022, Complainant's legal representative received a voicemail message from someone associated with Respondent questioning Complainant's rights associated with the disputed domain name.

#### 5. Parties' Contentions

##### A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, Complainant contends it has rights in the SCHICK Marks as evidenced by the facts above and as articulated in WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.2.1.

Complainant contends the disputed domain name incorporates in its entirety the SCHICK Marks and is therefore confusingly similar to the SCHICK Marks. Complainant further contends that the added word "lady" in the disputed domain name does not distinguish the disputed domain name from the SCHICK Marks.

Complainant contends that Respondent has no rights or legitimate interest in the disputed domain name and the website to which the disputed domain name resolves exists entirely for unauthorized commercial purposes, namely marketing and selling hair and related beauty products. Complainant contends that Respondent is not a licensee of Complainant and has never been affiliated with, connected to, or sponsored by Complainant. Complainant further contends that Respondent's use of the disputed domain name deceitfully draws Internet users, who are interested in Complainant's products, to Respondent's website, which does not constitute a bona fide offering of goods or services. Complainant contends there is no evidence that Respondent has been commonly known by the disputed domain name. Complainant contends that Respondent's website is for commercial, for-profit gain and does not communicate any genuine criticism of Complainant's business, and therefore cannot have a noncommercial or fair use purpose.

Complainant contends the disputed domain name was registered and has been used in bad faith by Respondent. Complainant contends that Respondent must have been aware of, or willfully blind to, Complainant's more than 60 years of rights in the SCHICK Marks. Complainant's trademark registrations are a matter of public record and any search engine query prior to registration would have revealed Complainant's pre-existing rights. Complainant further contends that Respondent's use of the disputed domain name with a website featuring hair products evidence's Respondent's knowledge of the SCHICK Marks and Respondent's intention to divert prospective customers to Respondent's website. Complainant contends that Respondent's use of the descriptive or generic added word "lady" is further evidence of bad faith and deceptive intent.

## **B. Respondent**

Respondent did not formally reply to Complainant's contentions. However, Respondent sent informal communications, dated on March 5 and 7, and May 10, 2024, indicating his desire to resolve this matter amicably but requesting an extension of time to facilitate the process of changing the name of his business,

## **6. Discussion and Findings**

### **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.

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 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, "lady", 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.

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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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. Moreover, the construction of the disputed domain name itself is such as to carry a risk of implied affiliation that cannot constitute fair use.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that Respondent must have known (or been willfully ignorant) of the existence of Complainant’s long term and well-established rights in the SCHICK Marks, certainly as they related to hair care products, which are marketed and sold through Respondent’s website. Communications from or associated with Respondent prior to filing of the Complaint do nothing to dissuade from this finding, which is further supported by Respondent’s failure to submit any formal response to the Complaint.

The Panel finds that 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, <schicklady.com>, be transferred to Complainant.

*/Timothy D. Casey/*

**Timothy D. Casey**

Sole Panelist

Date: July 25, 2024