

ADMINISTRATIVE PANEL DECISION

Hunza G Limited v. DOMAIN ADMINISTRATOR c/o Buy this domain on Dan.com

Case No. D2024-1636

1. The Parties

The Complainant is Hunza G Limited, United Kingdom (“UK”), represented by Briffa Legal Limited, United Kingdom.

The Respondent is DOMAIN ADMINISTRATOR c/o Buy this domain on Dan.com, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <theoriginalcrinkle.com> (the “Disputed Domain Name”) is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 18, 2024. On April 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On the same day, 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 (Domain Administrator, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 25, 2024 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 April 26, 2024.

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 May 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 22, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 23, 2024.

The Center appointed Nick J. Gardner as the sole panelist in this matter on May 30, 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

The Complainant is a designer and seller of swimwear and other fashion clothing. It markets its products under the brand name THE ORIGINAL CRINKLE. It is very successful. It had a turnover of GBP 22,339,969 for the 2023 financial year. Its products are sold in the top 250 retail stores in the world, to include Harrods, Selfridges, Net-a-Porter, Farfetch and SaksFifthAvenue.

The Complainant owns UK registered trademark THE ORIGINAL CRINKLE (word) number UK00003771978 registered on June 24, 2022 (“THE ORIGINAL CRINKLE trademark”).

The Disputed Domain Name was registered on March 17, 2024. It is currently offered for sale via a parking page for a price of USD 2,850.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

B. Respondent

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

6. Discussion and Findings

Preliminary Matters

The Panel notes that no communication has been received from the Respondent. However, given the Complaint and Written Notice were sent to the relevant addresses disclosed by the Registrar, then the Panel considers that this satisfies the requirement in paragraph 2(a) of the UDRP Rules to “employ reasonably available means calculated to achieve actual notice”. Accordingly, the Panel considers it is able to proceed to determine this Complaint and to draw inferences from the Respondent’s failure to file any Response. While the Respondent’s failure to file a Response does not automatically result in a decision in favor of the Complainant, the Panel may draw appropriate inferences from the Respondent’s default (see, e.g., *Verner Panton Design v. Fontana di Luce Corp*, WIPO Case No. [D2012-1909](#)).

Substantive Matters

To succeed, in accordance with paragraph 4(a) of the Policy, the Complainant must satisfy the Panel that:

- (i) the Disputed Domain Name is identical with 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.

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[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 ORIGINAL CRINKLE trademark is reproduced within the Disputed Domain Name with the spaces between the words omitted (and spaces cannot form part of a main name for technical reasons).

It is well established that the generic Top-Level Domain ("gTLD"), in this case ".com", does not affect the Disputed Domain Name for the purpose of determining whether it is identical or confusingly similar. See, for example, *Rollerblade, Inc. v. Chris McCrady*, WIPO Case No. [D2000-0429](#).

Accordingly, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's trademark and hence the first condition of paragraph 4(a) of the Policy has been fulfilled.

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 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 Name such as those enumerated in the Policy or otherwise.

Accordingly the Panel finds the Respondent has no rights or any legitimate interests in the Disputed Domain Name and the second condition of paragraph 4(a) of the Policy has been fulfilled.

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.

In the present circumstances, the identical nature of the Disputed Domain Name to the Complainant's THE ORIGINAL CRINKLE trademark and the lack of any explanation from the Respondent as to why it registered the Disputed Domain Name lead the Panel to conclude the registration and use was in bad faith.

Under the Policy paragraph 4b(i) evidence of registration and use in bad faith is established by “(i) circumstances indicating that you have registered or you have 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 that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name”.

In the present case, the Respondent has offered the Disputed Domain Name for sale. The Panel infers it selected the Disputed Domain Name because of its identity to the Complainant’s own trademark and hoped to elicit a payment from the Complainant. The term THE ORIGINAL CRINKLE is highly distinctive and it is not likely anyone other than the Complainant would have any interest in the Disputed Domain Name. In the circumstances the Panel concludes that paragraph 4(b)(i) applies.

Further the Panel notes that the Respondent has not filed a Response and hence has not availed itself of the opportunity to present any case of good faith that it might have. The Panel infers that none exists.

As a result the Panel finds that the Disputed Domain Name has been registered and is being used in bad faith. Accordingly the third condition of paragraph 4(a) of the Policy has been fulfilled.

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 <theoriginalcrinkle.com> be transferred to the Complainant.

/Nick J. Gardner/

Nick J. Gardner

Sole Panelist

Date: June 13, 2024