

ADMINISTRATIVE PANEL DECISION

Loeffler Randall, Inc v. jicheng ma
Case No. D2024-2712

1. The Parties

The Complainant is Loeffler Randall, Inc, United States of America (“United States”), represented by Tucker & Latifi, LLP, United States.

The Respondent is jicheng ma, China.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 2, 2024. On July 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 4, 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, and contact information in the Complaint. The Center sent an email communication to the Complainant on July 10, 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 amended Complaint on July 10, 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 the Respondent of the Complaint, and the proceedings commenced on July 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 11, 2024.

The Center appointed Luca Barbero as the sole panelist in this matter on August 22, 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 was established in 2004 by Jessie Randall and is the owner of the trademark LOEFFLER RANDALL, used in connection with the production and sales of the Complainant's clothing, shoes and accessories.

The Complainant is the owner of several trademark registrations for LOEFFLER RANDALL, including the following, as per trademark registration certificates submitted as annexes 2 to the Complaint:

- United States trademark registration No. 6590702 for LOEFFLER RANDALL (stylized mark), filed on October 5, 2017, and registered on December 14, 2021, in international class 9;
- European Union trademark registration No. 005908751 for LOEFFLER RANDALL (stylized mark), filed on May 15, 2007, and registered on July 25, 2008, in classes 18, 25 and 35;
- China trademark registration No. 35012908 for LOEFFLER RANDALL (stylized mark), filed on November 30, 2018, and registered on December 21, 2019, in international class 25.

The Complainant is also the owner of the domain name <loefflerandall.com>, which was registered on March 11, 2004, and is used by the Complainant to promote and offer for sale its products under the trademark LOEFFLER RANDALL.

The disputed domain name was registered on June 21, 2024, and is currently resolving to an error page. According to the screenshots submitted as Annex 3 to the Complaint - which have not been challenged by the Respondent - the disputed domain name was redirected prior to the filing of the Complaint to a website featuring the Complainant's LOEFFLER RANDALL mark and images of LOEFFLER RANDALL clothes and accessories which were offered for sale at discounted prices.

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.

Notably, the Complainant contends that the LOEFFLER RANDALL trademark has been protected for various goods and services including, but not limited to clothing, accessories, footwear, and online retail services around the world, since as early as 2007.

The Complainant points out that the disputed domain name is confusingly similar to its registered trademark LOEFFLER RANDALL as it reproduces the first part of the trademark, "loeffler", replacing the second part "randall" with the word "cloths".

With reference to rights or legitimate interests in respect of the disputed domain name, the Complainant states that the Respondent is not authorized or licensed to use its trademark in any way, nor is it commonly known by the disputed domain name.

The Complainant further contends that considering the Respondent is publishing the Complainant's mark and offering for sale purported LOEFFLER RANDALL branded goods which are counterfeit in the Complainant's view, the Respondent is seeking to create an impression of association with the Complainant, violating the law and infringing upon the Complainant's intellectual property rights.

With reference to the circumstances evidencing bad faith, the Complainant indicates that by using the disputed domain name, the Respondent is intentionally attempting to attract for commercial gain, Internet

users to its website by creating a likelihood of confusion with the trademark LOEFFLER RANDALL and to falsely creating the impression that the goods offered on the Respondent's website are actually those of the Complainant or that the disputed domain name may somehow be affiliated with the LOEFFLER RANDALL branded goods of the Complainant, which it is not.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules: "A Panel shall decide a complaint 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." Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

- (i) that the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that 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. Indeed, the Complainant has provided evidence of ownership of valid trademark registrations for LOEFFLER RANDALL (stylized mark) in several countries. As stated in section 1.10 of the [WIPO Overview 3.0](#), "Panel assessment of identity or confusing similarity involves comparing the (alpha-numeric) domain name and the textual components of the relevant mark. To the extent that design (or figurative/stylized) elements would be incapable of representation in domain names, these elements are largely disregarded for purposes of assessing identity or confusing similarity under the first element".

The Panel finds the dominant portion of the Complainant's mark, consisting of the first term "loeffler", is recognizable 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 the word "cloths" (clear misspelled version of "clothes") to the term "loeffler" 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.

Moreover, the content of the website associated with the disputed domain name as evidenced by the screenshots submitted as Annex 3 to the Complaint confirms confusing similarity as it shows that the Respondent has sought to target the Complainant's trademark through the disputed domain name. [WIPO Overview 3.0](#), section 1.15.

Lastly, the Top-Level Domain ".com" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

Therefore, 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 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.

The Panel notes that there is no relation, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant. The Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant’s trademark.

Moreover, there is no element from which the Panel could infer a Respondent’s right over the disputed domain name, or that the Respondent might be commonly known by the disputed domain name.

The Panel notes that, according to the screenshots submitted by the Complainant - which have not been challenged by the Respondent -, the disputed domain name, currently resolving to an error page, was redirected prior to the filing of the Complaint to a website reproducing the Complainant’s trademark LOEFFLER RANDALL and images of LOEFFLER RANDALL clothes and accessories, which were offered for sale at discounted prices, without providing any disclaimer of non-affiliation with the Complainant. The Panel notes that the content of the Respondent’s website was apt to induce users to wrongfully believe that the Respondent’s website was operated by the Complainant or one of its affiliated entities. The Panel finds that, irrespectively of the nature of the products which were offered on the website, such use of the disputed domain name did not meet the requirements set forth in the “Oki Data test” for a reseller or distributor of branded products to claim to be making a bona fide offering of goods and services under a domain name encompassing the trademark. See *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#) and [WIPO Overview 3.0](#), section 2.8.1.

In view of the above-described use of the disputed domain name, the Panel finds that the Respondent has not used the disputed domain name in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant’s trademark.

Therefore, the Panel finds the second element of the Policy has also 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.

In the present case, the Panel notes that, in light of the prior registration and use of the Complainant's trademark LOEFFLER RANDALL in connection with the Complainant's clothes and accessories, which are promoted and sold online on the Complainant's website "www.loefflerandall.com", the Respondent was or could have been aware of the Complainant and its trademark at the time of registration of the disputed domain name.

Furthermore, the circumstance that the disputed domain name was pointed according to the records to a website featuring the Complainant's trademark and offering purported LOEFFLER RANDALL for sale demonstrates that the Respondent was indeed well aware of the Complainant and its trademark.

The Panel also finds that, by pointing the disputed domain name to a website reproducing the Complainant's trademark and offering purported Loeffler Randall products, using images taken from the Complainant's website and failing to provide a disclaimer of non-affiliation with the Complainant, the Respondent has intentionally attempted to attract Internet users to its website for commercial gain, by causing a likelihood of confusion with the trademark LOEFFLER RANDALL as to the source, sponsorship, affiliation or endorsement of its website and the products promoted and offered therein according to paragraph 4(b)(iv) of the Policy.

At the time of the drafting of this Decision, the disputed domain name resolves to an error page. Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the composition of the disputed domain name – encompassing the dominant feature of the Complainant's mark in combination with a descriptive term referable to the Complainant's products –, the prior use of the disputed domain name evidenced by the screenshots submitted by the Complainant and the Respondent's failure to submit a Response to counter the Complainant's submissions, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Therefore, the Panel finds that the Complainant has also 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 <loefflercloths.com> be transferred to the Complainant.

/Luca Barbero/

Luca Barbero

Sole Panelist

Date: September 5, 2024