

ADMINISTRATIVE PANEL DECISION

Metabeauty, Inc. and Exclusive Beauty Club, LLC v. Shaniya Stokes
Case No. D2024-3770

1. The Parties

The Complainants are Metabeauty, Inc., and Exclusive Beauty Club, LLC, United States of America ("United States"), represented by Berger Singerman, LLP, United States.

The Respondent is Shaniya Stokes, United States.

2. The Domain Name and Registrar

The disputed domain name <exclusivebeautyclub.shop> is registered with Web Commerce Communications Limited dba WebNic.cc (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 16, 2024. On September 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 18, 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 (Registrant Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 24, 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 November 7, 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 November 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 6, 2024.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on December 12, 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 Complainants are affiliated companies based in Miami, Florida, United States that sell skin care products through authorized retailers and online at “www.exclusivebeautyclub.com” (the “Complainant’s website”) and linked social media sites. The Complaint attaches evidence that the two companies share ownership and a director, although it is not clear what use the Complainant Metabeauty, Inc. makes of the mark in question.¹ Given the evidence of common ownership interests, the Panel refers hereafter to the Complainant’s collectively as “the Complainant” except where otherwise indicated.

The Complainant Exclusive Beauty Club, LLC holds United States Trademark Registration Number 5394132, registered on February 6, 2018, for a figurative mark in which the words “Exclusive Beauty Club” are prominently featured in stylized letters within concentric arcs. The mark is used in International Class 35, based on an application filed in November 2016, claiming first use in commerce in June 2016.

The Panel notes that the Internet Archive’s Wayback Machine archives screenshots of the Complainant’s website, displaying a logo of similar design, as early as August 2015.

The Registrar reports that the disputed domain name was created on September 21, 2023, and is registered to the Respondent Shaniya Stokes, listing a postal address in the State of Maryland, United States. and a contact email address in the domain name <floridakeyswireless.com>, a domain name that does not resolve to an active website.

The disputed domain name does not resolve to an active website at the time of this Decision, and the Panel notes that there are no archived instances of a website associated with the disputed domain name available from the Internet Archive’s Wayback Machine.

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 disputed domain name is “substantively identical” to its registered EXCLUSIVE BEAUTY CLUB mark. The Complainant observes that the Respondent does not have a corresponding name and has made no use of the disputed domain name. The Complainant claims that the Respondent has used the disputed domain name “with malicious intent for commercial gain to misleadingly divert consumers, or to tarnish the trademark or service mark at issue”.

B. Respondent

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

¹The Panel notes that the Complainants initially filed the Complaint listing an additional disputed domain name, <skintypesolutions.shop>, allegedly targeting a corresponding trademark registered by the Complainant Metabeauty, Inc.

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 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 (the registered, figurative mark EXCLUSIVE BEAUTY CLUB) for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the textual element of the mark is reproduced within the disputed domain name. The textual element of the mark is prominent and corresponds exactly with 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.

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 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.

In the present case, the Panel notes that the record shows that the Complainant has been doing business online for more than eight years under the EXCLUSIVE BEAUTY CLUB mark. The Respondent, located in the same country, has not come forward to deny prior awareness of the Complainant or its mark or to offer a plausible alternative explanation for selecting the disputed domain name other than referring to the mark. The mark is comprised of dictionary words, but the combination of three such words makes it unusual and distinctive, and it has accordingly been registered as a trademark since 2018. It is this combination that makes it less likely that the Respondent innocently invented the same sequence without an intention to

suggest an association with the Complainant. The Respondent could be expected to discover the Complainant's website using the more common ".com" Top-Level-Domain ("TLD") with the same string, and ".shop" would suggest association with a site where the Complainant's products could be purchased. The Complainant suggests that the Respondent selected the disputed domain name for its confusing similarity to the Complainant's mark in the hope of misleading Internet users for commercial gain (which would be consistent with the example of bad faith cited in the Policy, paragraph 4(b)(iv)), although the Respondent has not yet put the disputed domain name to such use.

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.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) 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 distinctiveness of the Complainant's trademark, and the composition of the disputed domain name, 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.

The Panel finds that the 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 <exclusivebeautyclub.shop> be transferred to the Complainant.

/W. Scott Blackmer/

W. Scott Blackmer

Sole Panelist

Date: December 23, 2024