

ADMINISTRATIVE PANEL DECISION

Divitidirect Trading FZCO v. Che Hei Isaac Cheung
Case No. D2024-5179

1. The Parties

The Complainant is Divitidirect Trading FZCO, United Arab Emirates ("UAE"), represented by CEE Attorneys, Lithuania.

The Respondent is Che Hei Isaac Cheung, China.

2. The Domain Name and Registrar

The disputed domain name <wellneepainreliefpatch.com> is registered with CloudFlare, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 17, 2024. On December 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 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 (The owner of the domain / Data Redacted) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 18, 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 December 18, 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 December 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 12, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 15, 2025.

The Center appointed Christiane Féral-Schuhl as the sole panelist in this matter on January 22, 2025. 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 company based in Dubai specialized in the development and selling of beauty, wellness, electronics, and household products. The Complainant notably sells pain relief patch for knee pain under the name “Wellnee”.

The Complainant is the owner of the European Union wordmark WELLNEE, No. 018790540 registered on March 10, 2023, for products and services in class 10 (the “WELLNEE Trademark”).

The disputed domain name was registered April 11, 2024, and, at the time the Complaint was filed and at the time of the decision, it is inactive. The disputed domain name used to redirect to a website offering products for sale since there are sections of the website dedicated to tracking orders, shipping, and the types/forms of payment methods accepted. In addition, according to customer reviews on the website, the products offered for sale seemed to include allegedly counterfeit products of the Complainant containing its WELLNEE Trademark.

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 identical or confusingly similar to its WELLNEE Trademark since the first word of the disputed domain name incorporates the trademark wholly. The Complainant notes that the addition of the words, “pain”, “relief” and “patch” refers to the goods for which the WELLNEE Trademark is registered.

Then, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name since it is used for cybersquatting with the intention of profiting from a well-known brand name. The Complainant submits that even though the Respondent uses the disputed domain name in connection with the offering of goods, this offer does not adhere to the principle of bona fide since it is used to sell counterfeit goods. The Complaint contends the Respondent has not been commonly known under the disputed domain name and that the latter was registered after the registration of the WELLNEE Trademark. The Complainant highlights that its products and websites enjoy a considerable level of expenditure and have established a strong digital presence. The Complainant underlines that there is no evidence the Respondent is making a noncommercial or fair use of the disputed domain name without intent for commercial gain since the disputed domain name redirects to a website selling counterfeit goods.

Finally, the Complainant submits the disputed domain name was registered and is used in bad faith since it incorporates the WELLNEE Trademark wholly and is used to sell counterfeited goods. The Complainant underlines that it owns legal rights over the WELLNEE Trademark, and that the Respondent has registered a confusingly similar domain name to pass off as an official retailer of the Complainant. The Complainant stands that it has no affiliation or connection with the Respondent, and that it has never supplied the Respondent with its original products nor granted any right or licenses to the Respondent. The Complainant contends that the use of the WELLNEE Trademark in the disputed domain name is a typical example of cybersquatting which is a demonstration of the Respondent’s clear intent to misappropriate the goodwill associated with the Complainant’s trademark.

B. Respondent

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

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 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, "pain", "relief" and "patch", may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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 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.

Indeed, it appears the Respondent has not received any authorization to use the WELLNEE Trademark in any manner, including for the registration of the disputed domain name, and that the Respondent is not affiliated with or authorized by the Complainant in any way. Moreover, the Panel finds that the disputed domain name is inherently misleading. [WIPO Overview 3.0](#), section 2.5.1.

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 Respondent has registered the disputed domain name after the registration of the WELLNEE Trademark and that the disputed domain name is, at the time the Complaint was filed and at the time of the decision, inactive. The Panel notes that the disputed domain name used to redirect to a website offering products for sale since there are sections of the website dedicated to tracking orders, shipping, of payment methods accepted.

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 held that the use of a domain name for illegal activity here, claimed sale of counterfeit goods and impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the inherently misleading disputed domain name constitutes bad faith under the Policy. The fact that the disputed domain name is currently inactive does not prevent a finding of bad faith.

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 <wellneepainreliefpatch.com> be transferred to the Complainant.

/Christiane Féral-Schuhl/

Christiane Féral-Schuhl

Sole Panelist

Date: February 5, 2025