

ADMINISTRATIVE PANEL DECISION

Mothers Polishes Waxes Cleaners Incorporated v. Yun Xihui, Yun Xihui
Case No. D2025-0404

1. The Parties

The Complainant is Mothers Polishes Waxes Cleaners Incorporated, United States of America (“United States”), represented by Fulwider Patton LLP, United States.

The Respondent is Yun Xihui, Yun Xihui, China.

2. The Domain Name and Registrar

The disputed domain name <motherspolisheswaxes.com> is registered with OnlineNic, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 31, 2025. On February 3, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 4, 2025, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 February 5, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 25, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 26, 2025.

The Center appointed Mihaela Maravela as the sole panelist in this matter on February 27, 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

According to information in the Complaint, the Complainant is selling automotive car care products.

The Complainant is the holder of various trademarks for MOTHERS, including the United States trademark No. 1,865,522, registered as of December 6, 1994 for the classes of goods 3 and 25, or the United States trademark No. 4,825,171, registered as of October 6, 2015 for the class of goods 7. The Complainant is the registrant of the domain name <mothers.com>, which it uses to sell its products.

The disputed domain name was registered on February 28, 2024 and according to information in the Complaint, it was used to offer for sale outdoor lighting products. At the date of the Decision the disputed domain name resolves to a copycat of the Complainant's official website, displaying the Complainant's favicon and trademark, purporting to offer the same products as those of the Complainant, and copying the look and feel of the Complainant's official website.

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 a trademark or service mark in which the Complainant has rights, as it incorporates the Complainant's registered trademark and the Complainant's trade name.

As regards the second element, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, as the Respondent has copied the homepage from the Complainant's website located at <mothers.com>. The Respondent is using the disputed domain name to sell outdoor lighting products which the Complainant submits the Respondent is failing to actually deliver the products to the customers, as the Complainant has received telephone calls from customers who falsely believe that they have ordered the products from the Complainant.

With respect to the third element, the Complainant argues that the disputed domain name was registered and is being used in bad faith as the Respondent has copied the Complainant's homepage at the Complainant's website and the Respondent is engaging in fraudulent sale of lighting products.

B. Respondent

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

6. Discussion and Findings

No response has been received from the Respondent in this case. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules. The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain name is identical 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 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 MOTHERS 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, "polishes" and "waxes") 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.

It is the settled view of panels applying the Policy that the Top-Level Domain ("TLD") (here ".com") should be disregarded under the first element test.

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.

There is no evidence indicating that the Respondent is commonly known by the disputed domain name or the name "mothers". The disputed domain name is used to resolve to an active website which is a "copycat" of the Complainant's official website at "mothers.com". The website displays the MOTHERS trademark and logo, as well as the favicon and red colors at the Complainant's website, and provides no disclaimer as to any lack of authorization from or affiliation with the Complainant. This cannot amount in the Panel's view to a bona fide offering of goods or services within the meaning of paragraphs 4(c)(i) of the Policy or to a legitimate noncommercial or fair use of the disputed domain name as provided by article 4(c)(iii) of the Policy.

Panels have held that the use of a domain name for illegitimate activity (here, claimed impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Furthermore, the nature of the disputed domain name (including the Complainant's trademark in its entirety with terms related to the Complainant's products) carries a risk of implied affiliation and cannot constitute a fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

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.

The disputed domain name was registered many years after the Complainant obtained registration of its MOTHERS trademarks. The disputed domain name is confusingly similar with the Complainant's trademark and its registered tradename. Moreover, the trademark of the Complainant is displayed on the website at the disputed domain name where the Respondent copied the Complainant's website. Under these circumstances, there can be little doubt that the Respondent was aware of the Complainant's trademark at the registration date of the disputed domain name. The Panel finds that the Respondent targeted the Complainant's trademark at the time of registration of the disputed domain name.

As regards the use of the disputed domain name, the Panel finds that the disputed domain name resolves to a copycat version of the Complainant's website, displaying "MOTHERS" with the Complainant's trademark and logo. This amounts to use in bad faith under the terms of paragraph 4(b)(iv) of the Policy. Panels have held that the use of a domain name for illegitimate (here, claimed impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. The apparent change of the website to which the disputed domain name resolves after the date of the Complaint, to resolve to a copycat of the Complainant's official website, after being used - according to unrebutted evidence with the Complaint - to allegedly offer for sale other products, further reinforces the finding of bad faith use.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes 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 <motherspolisheswaxes.com> be transferred to the Complainant.

/Mihaela Maravela

Mihaela Maravela

Sole Panelist

Date: March 11, 2025