

ADMINISTRATIVE PANEL DECISION

THEGVGALLERY LLC v. Leonie Boshkoska

Case No. D2025-1204

1. The Parties

1.1 The Complainant is THEGVGALLERY LLC, United States of America (“United States”), represented by Immix Law Group PC, United States.

1.2 The Respondent is Leonie Boshkoska, France.

2. The Domain Name and Registrar

2.1 The disputed domain name <raspberrylhills.store> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

3.1 The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 24, 2025. At that time, publicly available Whois details did not identify the underlying registrant of the Domain Name.

3.2 On March 25, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On March 25, 2025, the Registrar transmitted by email to the Center its verification response disclosing underlying registrant and contact information for the Domain Name. The Center sent an email to the Complainant on March 27, 2025, 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 March 28, 2025.

3.3 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”).

3.4 In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on April 3, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 23, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 25, 2025.

3.5 The Center appointed Matthew S. Harris as the sole panelist in this matter on April 30, 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

4.1 The Complainant is a fashion retailer located in the United States and established in 2014, that has used the term “Raspberry Hills” as the name for one of its clothing lines since June 2019. The Complainant has a customer base of over 50,000 “fans”, 175,000 email subscribers, 135,000 SMS subscribers, and 271,000 followers on Instagram. It also cultivates an influencer and celebrity clientele.

4.2 The Complainant operates a drop-based model that involves restricted access to its website operating from the <thegavgallery.com> domain name, which is made available to subscribers via exclusive password access on designated drop days. Drop days typically generate over USD 500,000 in sales from these subscribers. The Complainant’s annual revenues exceed USD 10 million and there are over 2.25 million visitors to its website each year.

4.3 The Complainant has also filed two United States trade mark applications, which either comprise or incorporate the term “Raspberry Hills”. These are US trade mark applications 98719051 and 98719056, both filed on August 27, 2024, in class 25 and both of which were published for opposition on April 15, 2025. The second of these applications is in respect of a logo that the Complainant uses in respect of its products, and which takes the following form:



4.4 The Domain Name was registered on November 15, 2024. It has been used since registration for a website that prominently displays the Complainant’s logo, and purports to sell clothing under that brand. It also prominently displays a picture which combines a picture of a pop-up store in Los Angeles and a billboard in Seattle that has featured in the Complainant’s social media advertising. At the bottom of the home page of that website in small print is the copyright notice “© Raspberry Hills 2025” and an address in Arlington, Texas, United States. Products offered for sale included items that the Complainant has not dealt in for many years. Further, Internet users who have bought items from this website have not been supplied with the goods they have ordered. At least one communication provided by the Respondent in respect of these purchases has been signed “Team Raspberry Hills”.

5. Parties’ Contentions

A. Complainant

5.1 The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name. In this respect it contends that in addition to its trade mark applications, it is the owner of common law trade mark rights for “RASPBERRY HILLS”. It claims that the Domain Name is being used by the Respondent to pass itself off as the Complainant, as part of a scam whereby customer orders are not fulfilled and/or fake products are provided. Further, it claims that even if the Respondent is dealing in genuine second-hand goods, the fact that the Respondent is “masquerading as [the] Complainant” means that it is not engaged in a bona fide offering of goods or services and that the Domain Name has been both registered and used in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

6.1 It is generally 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 trade mark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

6.2 Although the Complainant relies upon two United States registered trade mark applications for "Raspberry Hills", trade mark applications generally do not provide relevant trade mark rights for the purposes of the Policy ([WIPO Overview 3.0](#), section 1.1.4).

6.3 However, the Complainant also claims to own common law trade mark rights in the term "Raspberry Hills". Common law trade mark rights can provide relevant trade mark rights for the purposes of the Policy. As is recorded in section 1.3 of the [WIPO Overview 3.0](#), this will usually require "a complainant to show that its mark has become a distinctive identifier which consumers associate with the complainant's goods and/or service". As is also recorded in the same section of the [WIPO Overview 3.0](#), the factors that are usually taken into account in this respect are:

"(i) the duration and nature of use of the mark, (ii) the amount of sales under the mark, (iii) the nature and extent of advertising using the mark, and (iv) the degree of actual public (e.g., consumer, industry, media) recognition, and (v) consumer surveys"

6.4 The Panel is satisfied on the basis of the detailed contentions in the Complaint, that have not been disputed by the Respondent, that the Complainant has used the term "Raspberry Hills" in the United States as an identifier in respect of a range of its products for many years and that the level of advertising and sales of those products have been substantial. Those contentions are consistent with claims made in connection with its trade mark applications and the Complainant has provided evidence of extensive social media activity using this identifier. Further, the term "Raspberry Hills", is not obviously descriptive of the goods in which the Complainant trades and appears to be an inherently distinctive in this respect. In the circumstances, the Panel accepts that the Complainant holds relevant common law trade mark rights in the term "Raspberry Hills", for the purposes of the Policy.

6.5 The entirety of the term "Raspberry Hills" is reproduced within the Domain Name. Accordingly, the Panel finds the Complainant's mark is recognisable within the Domain Name and that the Domain Name is confusingly similar to the Complainant's mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

6.6 The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests and Registered and Used in Bad Faith

6.7 It is usual for panels under the Policy to consider the issues of rights or legitimate interests and registration and use in bad faith in turn. However, in this case it is more convenient to consider those issues together. [WIPO Overview 3.0](#), section 2.15.

6.8 The Domain Name in this case can only sensibly be read as a combination of the words "Raspberry Hills" and the ".store", new generic Top-Level Domain. Further, the most sensible reading of the Domain Name is as reference to an online "store" that sells products under the Complainant's "Raspberry Hills"

brand. That this was the intention of the Respondent is also clear from the website that has operated from the Domain Name, which purports to offer for sale the Complainant's products.

6.9 Further, the Panel accepts that the way in which the Domain Name has been used, and in particular the website operating from the Domain Name, is deceptive and deliberately so. Not only does the website fail to disclose who is operating that website (as to which see *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#)), but the content of the same is deliberately designed to lead Internet users to believe that they have reached a website operated or endorsed by the Complainant when that is not the case. This includes (a) the prominent display of the Complainant's logo in a manner that suggests that this is the Complainant's own website, (b) the use of an image taken from different elements of the Complainant's social media advertising that appears deliberately designed to suggest that this either is an online store of the Complainant or alternatively the website relating to a physical store operated by the Complainant, and (c) the use of a copyright notice that also suggests that this website is operated by "Raspberry Hills" (as opposed to an independent third party).

6.10 There is no right or legitimate interest in holding and using a domain name to deliberately mislead Internet users into believing that the domain name is held and being used by a trade mark owner when it is not ([WIPO Overview 3.0](#) section 2.13.1) and such holding and use provides positive evidence that no such rights or legitimate interest exists. The registration and use of a domain name for such a purpose is also registration and use in bad faith (see [WIPO Overview 3.0](#), section 3.1.4). The Respondent's operation of the website from the Domain Name also falls within the circumstances evidencing bad faith registration and use set out at paragraph 4(b)(iv) of the Policy.

6.11 Further, the Panel accepts that the Domain Name and website have been used in connection with a "scam" whereby persons purchasing products from the website are not supplied with those products. This also supports findings of a lack of a right and legitimate interest and bad faith registration and use (see [WIPO Overview 3.0](#), sections 2.13 and 3.4).

7. Decision

7.1 For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Name <raspberrylhills.store> be transferred to the Complainant.

/Matthew S. Harris/

Matthew S. Harris

Sole Panelist

Date: May 9, 2025