

ADMINISTRATIVE PANEL DECISION

LoveShackFancy, LLC v. 帆 崔

Case No. D2022-3725

1. The Parties

The Complainant is LoveShackFancy, LLC, United States of America (“United States”), represented by Sheppard Mullin Richter & Hampton LLP, United States.

The Respondent is 帆 崔, China.

2. The Domain Name and Registrar

The Disputed Domain Name <theloveshackfancy.com> (the “Disputed Domain Name”) is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 6, 2022. On October 6, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On the same date, 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 sent an email communication to the Complainant on October 10, 2022 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 October 14, 2022.

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 October 24, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 13, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 23, 2022.

The Center appointed Peter Wild as the sole panelist in this matter on December 6, 2022. 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 owner of the well-known trademark LOVESHACKFANCY, which it uses since 2013 for its womenswear line, including vintage, bohemian inspired prints, and breezy skirts and dresses. The Complainant's trademark and products receive wide press coverage and are well known. The Complainant owns a number of trademarks for LOVESHACKFANCY, e.g., United States Registration No. 5,280,125 filed January 13, 2017, registered September 5, 2017. The Complainant also owns and uses the domain name <loveshackfancy.com>.

The Disputed Domain Name was registered on June 17, 2022. It resolves to a website which offers, with significant discount, products which look exactly like the Complainant's products and uses the photographic pictures from the Complainant's website.

5. Parties' Contentions

A. Complainant

The Complainant contends that it is the owner of a number of trademarks consisting of its name "Loveshackfancy" and that it has a strong reputation for the products under this trademark. The Complainant asserts that the Disputed Domain Name is confusingly similar to the above-mentioned LOVESHACKFANCY trademark and that the Respondent offers counterfeit products under the look alike website. The Complainant alleges that the Respondent has no rights or legitimate interests in the Disputed Domain Name, which was registered and is used in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant owns registered rights in the trademark LOVESHACKFANCY. The trademark clearly predates the Disputed Domain Name. The trademark is fully integrated in the Disputed Domain Name. The trademark LOVESHACKFANCY is clearly recognizable in the Disputed Domain Name. There is only one element in the Disputed Domain Name which differs from the Complainant's trademark: in the beginning, the word "the".

Further to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8, "[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements". Accordingly, the Disputed Domain Name, consisting of the LOVESHACKFANCY mark in its entirety, is confusingly similar to the Complainant's trademark regardless of the added term.

Therefore, the Panel is satisfied that the first element of the Policy is met.

B. Rights or Legitimate Interests

The Complainant must establish a *prima facie* case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. Once such *prima facie* case is made, the Respondent carries the burden of demonstrating its rights or legitimate interests in the Disputed Domain Name. If the Respondent fails to do

so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the UDRP.

The Respondent is not commonly known under the Disputed Domain Name and has no connection with or authorisation from the Complainant. The Respondent's activity under the website to which the Disputed Domain Name resolves is infringing the copyright and other rights of the Complainant. The evidence provided by the Complainant shows that the Disputed Domain Name resolves to a website allegedly selling the Complainant's goods and displaying the Complainant's copyrighted images. The Respondent therefore can not show a *bona fide* offering or fair use of the Disputed Domain Name. See *Eli Lilly and Company and Novartis Tiergesundheit AG v. Manny Ghumman / Mr. NYOB / Jesse Padilla*, WIPO Case No. [D2016-1698](#).

Moreover, the construction of the Disputed Domain Name, consisting of the LOVESHACKFANCY mark along with the term "the" carries a risk of implied affiliation that cannot constitute fair use since it effectively impersonates or suggests sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

In the absence of any explanation by the Respondent, the Complainant's establishment of the *prima facie* case is sufficient.

With the evidence on file, this Panel is satisfied that the second element of the Policy is met.

C. Registered and Used in Bad Faith

The Disputed Domain Name is used to offer products which look identical to the products which the Complainant offers on its website under "www.loveshackfancy.com". The Complainant claims that these goods are unauthorised or counterfeit goods. However, the Complainant does not offer evidence on this last point. Given the use of identical photos, the almost identical Disputed Domain Name and the significantly reduced prices for which the Respondent offers the goods are however strong indications of this. The Panel is therefore inclined, taking in consideration the overall picture and the absence of any defence or explanation from the Respondent, to accept that the goods are unauthorised or counterfeit indeed.

Taking into account the strength of the Complainant's trademark LOVESHACKFANCY and the context which the Disputed Domain Name creates, it is obvious that the Respondent was and is aware of the Complainant's trademark, its products and website, which it copied directly. In this Panel's view, this establishes bad faith registration of the Disputed Domain Name.

This Panel therefore comes to the conclusion that the third element of the Policy is met.

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 <theloveshackfancy.com> be transferred to the Complainant.

/Peter Wild/

Peter Wild

Sole Panelist

Date: December 20, 2022