

## **ADMINISTRATIVE PANEL DECISION**

Pipes & Shaw, LLC v. Ecedshj Tbmew  
Case No. D2022-4675

### **1. The Parties**

The Complainant is Pipes & Shaw, LLC, United States of America (“United States”), represented by Cheryl Wang, United States.

The Respondent is Ecedshj Tbmew, China.

### **2. The Domain Name and Registrar**

The disputed domain name <veronica-beard.com> (the “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 December 6, 2022. On December 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 8, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Whois Agent, Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 12, 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 December 18, 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 December 23, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 11, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 13, 2023.

The Center appointed Ian Lowe as the sole panelist in this matter on January 19, 2023. 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 New York corporation. It operates a website at “www.veronicabeard.com” from which it appears that the Complainant designs and sells a wide range of women’s clothing, shoes, and accessories both from its website and from a number of stores in the United States and in London, United Kingdom.

The Complainant is the proprietor of a number of registered trademarks for VERONICA BEARD, including United States trademark number 4083720 registered on January 10, 2012, and European Union trademark number 10691038 registered on September 1, 2012.

The Domain Name was registered on July 13, 2022. It resolves to a website (the “Respondent’s Website”) whose home page is titled VERONICA BEARD, in a font apparently identical to the font used by the Complainant on its website. The Respondent’s Website purports to offer for sale a wide range of Veronica Beard branded clothing at substantially discounted prices. It does not give any indication as to the operator of the website, except for an address in Palo Alto, United States.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant contends that the Domain Name is confusingly similar to its VERONICA BEARD mark (the “Mark”), that the Respondent has no rights or legitimate interests in respect of the Domain Name, and that the Respondent registered and is using the Domain Name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

For this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

##### **A. Identical or Confusingly Similar**

The Complainant has uncontested rights in the Mark by virtue of its trademark registrations. Ignoring the generic Top-Level Domain (“gTLD”) “.com”, the Domain Name is identical to the Mark save for the addition of a hyphen that is insignificant for the purposes of comparison.

Accordingly, the Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights.

## **B. Rights or Legitimate Interests**

The Complainant has made out a strong *prima facie* case that the Respondent could have no rights or legitimate interests in respect of the Domain Name. The Respondent has not used the Domain Name in connection with a *bona fide* offering of goods or services, but for a website imitating the Complainant's website and purporting to offer what claim to be the Complainant's products. The Panel has found that the Domain Name is identical to the Mark save for the separating hyphen. As section 2.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") notes, "UDRP Panels have [generally] found that domain names identical to a complainant's trademark carry a high risk of implied affiliation".

Furthermore, the Respondent's Website is offering products for sale at what are claimed to be very substantially discounted prices, which is consistent with the products in question either being counterfeit or simply being offered for sale fraudulently with no intention of supplying the goods. Although there could be the possibility of these being genuine products being offered for resale, UDRP panels have extensively considered the limited rights of such a distributor or reseller under the so-called "Ok! Data" test, enshrined in section 2.8 of the [WIPO Overview 3.0](#). The Domain Name does not pass the test set out in *Ok! Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#), since the Respondent's Website does not adequately and prominently disclose its relationship (or rather its lack of any relationship) with the Complainant, so reinforcing the risk of implied affiliation in the composition of the Domain Name.

There is no suggestion that the Respondent has ever been known by the Domain Name (section 2.3 of the [WIPO Overview 3.0](#)) and the Complainant has not given the Respondent permission to use the Domain Name. The Respondent has chosen not to respond to the Complaint, to explain its registration and use of the Domain Name, or to take any steps to counter the *prima facie* case established by the Complainant.

In the circumstances, the Panel finds that the Respondent does not have any rights or legitimate interests in respect of the Domain Name.

## **C. Registered and Used in Bad Faith**

Since the Respondent has used the Domain Name for a website claiming to be that of VERONICA BEARD and selling what purport to be the Complainant's goods, the Panel is in no doubt that the Respondent had the Complainant and its rights in the Mark in mind when it registered the Domain Name. In the absence of any response by the Respondent, the Panel has no reason to doubt that the Respondent has used its websites to imitate the Complainant, to mislead Internet users into believing that the Respondent's Website is operated or authorised by the Complainant, and into believing that the products on the website are being offered for sale by or with the authority of the Complainant. In the Panel's view, the use of domain names for such activity, clearly with a view to commercial gain, amounts to paradigm bad faith registration and use for the purposes of the Policy.

Accordingly, the Panel finds that the Domain Name has been registered and is being used in bad faith.

## **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 Domain Name <veronica-beard.com> be transferred to the Complainant.

/Ian Lowe/

**Ian Lowe**

Sole Panelist

Date: February 4, 2023