

ADMINISTRATIVE PANEL DECISION

Hearst Communications, Inc. v. jay jay
Case No. D2023-0099

1. The Parties

The Complainant is Hearst Communications, Inc., United States of America (“United States” or “USA”), represented internally.

The Respondent is jay jay, Singapore.

2. The Domain Name and Registrar

The disputed domain name <goodhousekeeping.vip> (the “Disputed Domain Name”) is registered with Go Montenegro Domains, LLC. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 9, 2023. On January 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On January 11, 2023, 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 (Domains by Proxy LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 12, 2023, 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 January 19, 2023.

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 January 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 16, 2023. The Respondent did not submit any formal response. The Center received communications from the Respondent on January 14 and 27, and on February 15, 2023. Accordingly, the Center notified the parties that it would proceed to panel appointment on February 24, 2023.

The Center appointed Nick J. Gardner as the sole panelist in this matter on March 7, 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 USA Corporation. It publishes Good Housekeeping magazine. Good Housekeeping magazine was first published in 1885, and since then has become a leading publication read primarily by women in the USA, providing them with news, trends, real-life and fiction stories, advice, recipes and product recommendations. Good Housekeeping now has nearly 17 million readers of the print and digital editions, over 45 million readers on its website, and almost 7 million social media followers. Its principal website is linked to the domain name “goodhousekeeping.com”.

The Complainant owns a number of trademarks for GOOD HOUSEKEEPING – see for example United States trademark 0046028 registered on September 5, 1905. These trademarks are referred to as the “GOOD HOUSEKEEPING trademark” in this decision.

The Disputed Domain Name was registered on June 21, 2022. Although it does not presently resolve to an active website the filed evidence shows it has in the past been linked to a website (the “Respondent’s Website”) which is in substance a copy of the Complainant’s website.

5. Parties’ Contentions

A. Complainant

The Complainant’s contentions can be summarized as follows.

The Disputed Domain Name is identical to the GOOD HOUSEKEEPING Trademark.

The Respondent has no rights or legitimate interests in the term “good housekeeping”.

In consequence the Complainant alleges that the Disputed Domain Name was registered and is being used in bad faith. The Complainant says the deceptive nature of the Respondent’s Website is clear evidence of bad faith. It says the Disputed Domain Name “was apparently registered to intentionally collect (i) login credentials of actual account holders of those users of Complainant’s legitimate goodhousekeeping.com website and/or (ii) identifying information on unsuspecting potential users of Complainant”.

B. Respondent

No formal response has been filed. In his informal communication to the Center the Respondent said he did not think he had done anything wrong – for example in his email dated February 15, 2023, the Respondent stated “I don’t think I’ve broken any rules, I registered the domain name myself and I’m not using it or infringing on the trademark owner’s interest, if you want to use the domain name please tell me how much I have to pay?”.

6. Discussion and Findings

Preliminary Matters

The Panel notes that no formal Response has been filed by the Respondent. However, the Panel notes that the Respondent sent email communications to the Center showing that it achieved actual notice of the dispute, then the Panel considers that this satisfies the requirement in paragraph 2(a) of the UDRP Rules to

“employ reasonably available means calculated to achieve actual notice”. Accordingly, the Panel considers it is able to proceed to determine this Complaint.

Substantive Matters

To succeed, in accordance with paragraph 4(a) of the Policy, the Complainant must satisfy the Panel that:

- (i) the Disputed Domain Name is identical with 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;
- (iii) the Disputed Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has rights in the GOOD HOUSEKEEPING trademark. The Panel finds the Disputed Domain Name is identical to this trademark. It is well established that the generic Top-Level Domain (“gTLD”), in this case “.com”, does not affect the Disputed Domain Name for the purpose of determining whether it is identical or confusingly similar. See, for example, *Rollerblade, Inc. v. Chris McCrady*, WIPO Case No. [D2000-0429](#). The only other difference between the Disputed Domain Name and the GOOD HOUSEKEEPING trademark is the omission of the space between the two words. The Panel does not consider this material especially as technical considerations prevent a space forming part of a domain name.

Accordingly the Panel finds that the Disputed Domain Name is identical to the Complainant’s trademark and hence the first condition of paragraph 4(a) of the Policy has been fulfilled.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a domain name:

- (i) before any notice to the respondent of the dispute, use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent has been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

None of these apply in the present circumstances. The Complainant has not authorised, licensed, or permitted the Respondent to register or use the Disputed Domain Name or to use GOOD HOUSEKEEPING trademark. The Complainant has prior rights in the GOOD HOUSEKEEPING trademark which precede the Respondent’s acquisition of the Disputed Domain Name. The Complainant has therefore established a *prima facie* case that the Respondent does not have any rights or legitimate interests in the Disputed Domain Name and thereby the burden of production shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the Disputed Domain Name (see, for example, *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

The Panel finds that the Respondent has failed to produce any evidence to establish his rights or legitimate interests in the Disputed Domain Name. Accordingly the Panel finds the Respondent has no rights or any

legitimate interests in the Disputed Domain Name and the second condition of paragraph 4(a) of the Policy has been fulfilled.

C. Registered and Used in Bad Faith

In the present circumstances the fact that the Disputed Domain Name was linked to the Respondent's Website which impersonated the Complainant's own website lead the Panel to conclude the registration and use were in bad faith.

The Panel concludes that the Respondent chose to register a name comprising the Complainant's trademark in order to facilitate a scheme where the Respondent's website impersonated that of the Complainant. See below for a discussion as to the Respondent's motives.

Under paragraph 4(b) of the Policy a non-exhaustive list of factors evidencing registration and use in bad faith comprises:

- (i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or
- (ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.

The Panel is not entirely sure which if any of these factors applies. The Complainant has said that the Respondent is engaged in the deceptive collection of customer data. If that was the case that would clearly lead to a finding of bad faith registration and use. However the Panel does not think the evidence clearly establishes that the Respondent is necessarily engaged in deceptive data collection. The evidence shows the Respondent has linked the Disputed Domain Name to a website which is an unauthorized replica of the Complainant's own website. The evidence is not however clear as to how that website behaves and whether it has any facilities that collect customer data. The Panel is therefore unclear as to the Respondent's exact motives.

However the Panel notes that in any event the list paragraph 4(b) of the Policy is non exhaustive and takes the view that the registration of the Disputed Domain Name with knowledge of the Complainants' well known trademark (which the Respondent must have had) is itself evidence of bad faith – see *The Channel Tunnel Group Ltd. v. John Powell*, WIPO Case No. [D2000-0038](#). This is particularly so given that the Respondent's account in his informal email that he has not used the Disputed Domain Name is manifestly incorrect and he has not provided any meaningful explanation for his conduct in creating a replica of the Complainant's own website.

Accordingly the Panel finds that the Disputed Domain Name has been registered and is being used in bad faith. Accordingly the third condition of paragraph 4(a) of the Policy has been fulfilled

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 <goodhousekeeping.vip> be transferred to the Complainant.

/Nick J. Gardner/

Nick J. Gardner

Sole Panelist

Date: March 21, 2023