

ADMINISTRATIVE PANEL DECISION

Greyson Clothiers, LLC v. Pan Ji tower
Case No. D2023-2361

1. The Parties

Complainant is Greyson Clothiers, LLC, United States of America (“United States” or “U.S.”), represented by Arnold & Porter Kaye Scholer LLP, United States of America.

Respondent is Pan Ji tower, United States of America.

2. The Domain Name and Registrar

The disputed domain name <greysonxy.shop> (the “Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 31, 2023. On June 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On June 1, 2023, the Registrar transmitted by email to the Center its verification response confirming that 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 Respondent of the Complaint, and the proceedings commenced on June 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 18, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on July 25, 2023.

The Center appointed Douglas M. Isenberg as the sole panelist in this matter on July 26, 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

Complainant states that it is a “golf- themed lifestyle apparel company” that “manufactures, markets, and sells various golf-themed apparel and other products in the United States and elsewhere”; that it “owns the domain name GREYSONCLOTHIER.COM, which it has used since at least as early as 2016 to host a website to communicate with the public about Greyson and its products.”

Complainant further states, and provides documentation in support thereof, that it is the registrant of the trademark GREYSON, which it has used “for over 7 years” and is protected by at least the following registrations for use in connection with, *inter alia*, clothing and apparel: U.S. Reg. Nos. 5,591,104 (registered October 23, 2018), 5,638,642 (registered December 25, 2018), 5,916,919 (registered November 19, 2019), and 6,901,409 (registered November 15, 2022) (the “GREYSON Trademark”).

The Disputed Domain Name was created on March 30, 2023. According to the Complaint and documentation provided in support thereof, Respondent uses the Disputed Domain Name in connection with a website that “advertise[s] for sale purported GREYSON products of unknown origin on a purported GREYSON ‘shop’ website, as well as various goods, such as earrings and wristwatches, that Complainant does not sell at all.”

5. Parties’ Contentions

A. Complainant

Complainant contends, in relevant part, as follows:

- The Disputed Domain Name is confusingly similar to the GREYSON Trademark because the Disputed Domain Name “wholly incorporates Complainant’s GREYSON mark and (1) merely adds the non-distinctive letters ‘xy’ and the generic top level domain ‘shop’ to Complainant’s well-known trademark GREYSON, (2) is confusingly similar to Complainant’s own domain name GREYSONCLOTHIERS.COM, and (3) is so clearly similar to Complainant’s GREYSON mark that it is likely to cause (and plainly is intended to cause) confusion among members of the public and others.”
- Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, *inter alia*, “Complainant is not affiliated in any way with Respondent – to the extent Respondent can even be identified – and has never authorized Respondent to register or use the subject domain name or the GREYSON mark”; “[u]pon information and belief, Respondent is not commonly known by the name ‘GREYSONXY’ or any variation thereof”; “Complainant’s adoption and registration of the mark GREYSON in the United States and elsewhere precedes Respondent’s registration of the subject domain name”; and “Respondent has intentionally registered the subject domain name explicitly for the purpose of misleading users and making an illegitimate impression that it is authorized by Complainant in order to promote and sell apparel that competes with Greyson’s own authentic goods and Greyson’s own retail sales.”
- The Disputed Domain Name was registered and is being used in bad faith because, *inter alia*, “Respondent has registered and is using the subject domain name intentionally to misdirect and divert customers looking for information about Complainant and its GREYSON mark and products to a for-profit web site that misleadingly suggests that it is a GREYSON ‘shop’ site and that offers apparently counterfeit, improperly diverted, or otherwise unauthorized GREYSON products and other products not sold by Complainant,” which “creates a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the site to which the domain name resolves, as to Respondent’s retail services, and as to the products sold on Respondent’s site.”

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Pursuant to the Policy, Complainant is required to prove the presence of each of the following three elements to obtain the relief it has requested: (i) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; (ii) 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. Policy, paragraph 4(a).

A. Identical or Confusingly Similar

Based upon the trademark registrations cited by Complainant, it is apparent that Complainant has rights in and to the GREYSON Trademark.

As to whether the Disputed Domain Name is identical or confusingly similar to the GREYSON Trademark, the relevant comparison to be made is with the second-level portion of the Disputed Domain Name only (*i.e.*, “greysonxy”) because “[t]he applicable Top-Level Domain (‘TLD’) in a domain name (*e.g.*, ‘.com’, ‘.club’, ‘.nyc’) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test”. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.11.1.

As set forth in section 1.7 of [WIPO Overview 3.0](#): “in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.” Further, as set forth in section 1.8 of [WIPO Overview 3.0](#): “Where 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.”

Accordingly, the Panel finds that Complainant has proven the first element of the Policy.

B. Rights or Legitimate Interests

Complainant has argued that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, *inter alia*, “Complainant is not affiliated in any way with Respondent – to the extent Respondent can even be identified – and has never authorized Respondent to register or use the subject domain name or the GREYSON mark”; “[u]pon information and belief, Respondent is not commonly known by the name ‘GREYSONXY’ or any variation thereof”; “Complainant’s adoption and registration of the mark GREYSON in the United States and elsewhere precedes Respondent’s registration of the subject domain name”; and “Respondent has intentionally registered the subject domain name explicitly for the purpose of misleading users and making an illegitimate impression that it is authorized by Complainant in order to promote and sell apparel that competes with Greyson’s own authentic goods and Greyson’s own retail sales.”

[WIPO Overview 3.0](#), section 2.1, states: “[w]hile 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.”

The Panel finds that Complainant has established its *prima facie* case and without any evidence from Respondent to the contrary, the Panel is satisfied that Complainant has satisfied the second element of the Policy.

C. Registered and Used in Bad Faith

Whether a domain name is registered and used in bad faith for purposes of the Policy may be determined by evaluating four (non-exhaustive) factors set forth in the Policy: (i) circumstances indicating that the registrant has registered or 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 the registrant's documented out-of-pocket costs directly related to the domain name; or (ii) the registrant has 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 the registrant has engaged in a pattern of such conduct; or (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet users to the registrant's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the registrant's website or location or of a product or service on the registrant's website or location. Policy, paragraph 4(b).

By using the Disputed Domain Name in connection with a website that falsely purports to be a website for, or otherwise associated with, Complainant – by offering for sale clothing and apparel, the goods associated with the GREYSON Trademark – Respondent is clearly “creating a likelihood of confusion” with the GREYSON Trademark, constituting bad faith pursuant to paragraph 4(b)(iv) of the Policy, as numerous panels have found in similar disputes. See, e.g., *CWI, Inc. (“CWI”) v. Craig Goldrich, Tulsa RV*, WIPO Case No. [D2017-1406](#) (finding bad faith where disputed domain name “redirects to a website... which Complainant describes as ‘a website for a competitor of [Complainant] offering products and services identical and highly related to those offered by [Complainant]’”); *Kabushiki Kaisha Toshiba d/b/a Toshiba Corporation v. Liu Xindong*, WIPO Case No. [D2003-0408](#) (using a disputed domain name “to sell directly competing products” constitutes bad faith); and *Ho Hoi Ming Michael, VGH Solutions (“Dr Ho”) v. EHM All Things Healthy, LLC*, WIPO Case No. [D2014-1753](#) (finding bad faith where disputed domain name “wholly incorporates the Trade Mark, and ... is almost identical to the Complainant’s own registered domain name and was used to sell similar goods”).

Accordingly, the Panel finds that Complainant has proven 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 <greysonxy.shop> be transferred to Complainant.

/Douglas M. Isenberg/

Douglas M. Isenberg

Sole Panelist

Date: July 28, 2023