

ADMINISTRATIVE PANEL DECISION

Colgate-Palmolive Company v. chenxu
Case No. D2023-5175

1. The Parties

The Complainant is Colgate-Palmolive Company, United States of America ("United States"), represented by Fross Zelnick Lehrman & Zissu, P.C., United States.

The Respondent is chenxu, Hong Kong, China.

2. The Domain Name and Registrar

The Disputed Domain Name <colgate-shop.com> is registered with Alibaba.com Singapore E-Commerce Private Limited (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 12, 2023. On December 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On December 14, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 15, 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 amended Complaint on December 16, 2023.

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 22, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 12, 2024.

The Center appointed Tommaso La Scala as the sole panelist in this matter on January 24, 2024. 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 well known United States multinational consumer products company, specialized in the production, distribution, and provision of household, health care, personal care, and veterinary products, which employs over 33,000 people in over 100 countries and territories around the globe and with global sales in 2022 of over USD 17.9 billion.

The COLGATE trademark has been in use in the United States for more than 200 years and has been registered both at a national and international level worldwide, including in the United States, among others under Registration Nos.:

- 60,595 (granted on February 12, 1907 and duly renewed);
- 227,647 (granted on May 10, 1927 and duly renewed); and
- 427,475 (granted on February 11, 1947 and duly renewed).

The Complainant also owns, among others, the domain name <colgate.com>, registered in 1995 and connected to a website with averages almost 1.7 million unique visitors per month.

The Disputed Domain Name <colgate-shop.com> has been registered on November 12, 2023, and currently redirects to an active page, even though the previous demonstrated content was a website impersonating the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name. The Complainant is the owner of a considerable amount of trademark registrations in dozens of jurisdictions worldwide that consist of or include the mark COLGATE.

The Disputed Domain Name fully incorporates the well known COLGATE trademark and is therefore confusingly similar to the Complainant's mark.

The Complainant contends that the Respondent has no rights or legitimate interests in the Disputed Domain Name.

The Complainant confirms it has never assigned, granted, licensed, sold, transferred, or in any way authorized the Respondent to register or use the COLGATE Trademark in any manner.

The Disputed Domain Name was registered in bad faith, since the attempt of impersonating the Complainant carried out by the Respondent for phishing purposes cannot be in good faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

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

The Complainant has established rights to the COLGATE mark, as demonstrated by its registrations and widespread continued use. The Disputed Domain Name is confusingly similar to the Complainant's well known mark because it contains the entirety of the Complainant's marks with the addition of the descriptive term "shop". The addition of a term such as "shop" does not prevent a finding of confusing similarity between the Disputed Domain Name and the Complainant's registered trademark. See *Pelican Products, Inc. v. Mike Baines*, WIPO Case No. [D2023-3850](#) ("*The addition of the dictionary words ... 'shop' do[es] not avoid a finding of confusing similarity.*"); see also *Reassure Midco Limited v. Registration Private, Domains By Proxy, LLC / Name Redacted*, WIPO Case No. [D2021-3595](#); *Bulgari S.p.A. v. Namespro.ca PrivateWHOIS / Jay Dou, Supplied By Canada*, WIPO Case No. [D2020-3370](#); *Volvo Trademark Holding Aktiebolag c/o AB Volvo v. 张慧 (Zhang Hui)*, WIPO Case No. [D2020-1808](#). See also *Banana Republic (ITM) Inc. v. Domain Drop, S.A.*, WIPO Case No. [D2007-1336](#).

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The Panel finds the entirety of the mark is reproduced within the Disputed Domain Name. Accordingly, the Disputed Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

The Complainant has shown that the Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Name without intent for commercial gain. Rather, the Respondent was trying to impersonate the Complainant for phishing purposes.

The Respondent did not even reply to the Complainant's allegations; therefore, the Respondent cannot establish rights or legitimate interests under the Policy.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name such as those enumerated in the Policy or otherwise.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Disputed Domain Name was registered decades after the Complainant first started using its COLGATE trademark and the Complainant's evidence establishes extensive global use of its mark as at the date of registration of the Disputed Domain Name. Given the confusing similarity between the latter and the Complainant's mark, it is clear that the Respondent was aware of the Complainant and its COLGATE mark as at the date of registration of the Disputed Domain Name and registered it in order to take unfair advantage of it.

On the contrary, the website to which the Disputed Domain Name resolved that is impersonating the Complainant's Colgate products and asked the users to create user account using phone number as login ID and password was clear evidence of the Respondent's knowledge and awareness of the Complainant.

Paragraph 4(b) of the Policy sets out, without limitation, circumstances which, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. The circumstance set out in paragraph 4(b)(iv) of the Policy is if a respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website.

UDRP panels have categorically held that the use of a domain name for illegal activity (e.g., phishing and impersonation/passing off) can never confer rights or legitimate interests on a respondent and that phishing "[...] is manifestly considered evidence of bad faith" (see [WIPO Overview 3.0](#), section 3.1.4).

Since "Evidence of fraudulent creation and use of the website and phishing activity is evidence that the Respondent intended to disrupt the Complainant's business and to divert web traffic intended for the Complainant "by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of the Respondent's website" within paragraph 4(b)(iv) of the Policy." (*e2Interactive, Inc. v. Jhonleno Fernandez*, WIPO Case No. [D2021-0645](#)), the Panel therefore finds the Respondent to have registered and used the Disputed Domain Name 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 Disputed Domain Name <colgate-shop.com> be transferred to the Complainant.

/Tommaso La Scala/

Tommaso La Scala

Sole Panelist

Date: January 31, 2024