

ADMINISTRATIVE PANEL DECISION

Camilla Australia Pty Ltd. v. James Ford, Ford James
Case No. D2024-0631

1. The Parties

The Complainant is Camilla Australia Pty Ltd., Australia, represented by Strategic IP Information Pte Ltd., Singapore.

The Respondent is James Ford, Ford James, United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <camillausa.shop> is registered with Web Commerce Communications Limited dba WebNic.cc (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 12, 2024. On February 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 13, 2024, 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 February 14, 2024, 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 February 16, 2024.

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 February 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 13, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 14, 2024.

The Center appointed Marilena Comanescu as the sole panelist in this matter on April 1, 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 global fashion brand. The Complainant's CAMILLA brand was founded by the Australian designer Camilla Franks and the brand's first collection, a range of caftans, was launched in 2004 at Australia Fashion Week. The brand has subsequently grown and the Complainant's clothes, accessories and homewares are currently sold in 65 countries globally, including in the United States, the United Kingdom, New Zealand and Australia.

The Complainant holds registrations for the CAMILLA mark, such as the following:

- United States trademark registration number 5271853 for CAMILLA (word in stylized characters), filed on November 5, 2015, and registered on August 22, 2017, for services in International class 35; and

- United States trademark registration number 4973506 for CAMILLA (word in stylized characters), filed on February 8, 2013, and registered on June 7, 2016, for goods in International classes 14 and 18.

The Complainant owns and promotes its goods using the domain name <camilla.com>.

The disputed domain name was registered on October 9, 2023, and, at the time of filing of the Complaint, it was used in connection with a commercial website, offering for sale purported CAMILLA branded products, also attempting to impersonate the Complainant by prominently displaying the Complainant's CAMILLA mark, and using unauthorized copies of the Complainant's own product images.

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.

Notably, the Complainant contends that the brand name CAMILLA is distinctive of the Complainant's products; the Complainant has a long and well-established reputation in the CAMILLA trademark through extensive use through the world in relation to women kaftans; the CAMILLA products have been worn by numerous celebrities all around the world; the disputed domain name reproduces the distinctive part of the Complainant's trademark and corporate name CAMILLA; the Respondent has no rights or legitimate interests in the disputed domain name; the Respondent registered and is using the disputed domain name in bad faith, in connection with a website claiming to offer CAMILLA products at heavily discounted prices and using the Complainant's brand imagery and copyright images without any authorization.

B. Respondent

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

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- (i) the disputed domain name is identical 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 the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

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 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 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.

Although the addition of other term, here "usa", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 non-exhaustive 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.

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.

According to the evidence, the Respondent has used the disputed domain name in connection with a website purportedly promoting and offering for sale goods of the Complainant with significant price reductions, displaying the Complainant's trademark, and official product images, without providing any accurate and prominent disclaimer regarding the relationship between the Respondent and the Complainant. Panels have held that the use of a domain name for illegal activity (such as., the sale of apparently counterfeit goods, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Further, the composition of the disputed domain name, which combines the Complainant's trademark with a geographical term, suggests an affiliation with the trademark owner. Panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel finds that the Respondent registered the disputed domain name in bad faith noting the CAMILLA mark has been registered since at least 2016 and has acquired significant recognition in the fashion field. Further, the use of the disputed domain name to effectively impersonate the Complainant enforces such finding.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "to attract, for commercial gain, Internet users to [the respondent's] 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 [the respondent's] web site or location or of a product or service on [the respondent's] web site or location" is evidence of registration and use in bad faith.

Given that the disputed domain name incorporates the Complainant's trademark with an additional geographical term, the website operated under the disputed domain name displays the Complainant's trademark, official product images, providing likely counterfeit versions of the Complainant's products, indeed in this Panel's view, the Respondent has intended to attract Internet users accessing the website corresponding to the disputed domain name who may be confused and believe that the website is held, or controlled by the Complainant, or somehow affiliated with or related to the Complainant, for the Respondent's commercial gain. This activity may also disrupt the Complainant's business and tarnish its trademark.

The Panel finds that the Complainant has established 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 <camillausa.shop> be transferred to the Complainant.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: April 11, 2024