

ADMINISTRATIVE PANEL DECISION

Varoom Whoa, Inc. v. Aarnav Paul, Arnav It Farm
Case No. D2024-2340

1. The Parties

The Complainant is Varoom Whoa, Inc., United States of America ("United States"), represented by Akerman LLP, United States.

The Respondent is Aarnav Paul, Arnav It Farm, India.

2. The Domain Name and Registrar

The disputed domain name <paramoremerch.com> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 7, 2024. On June 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 10, 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 (Registration Private, Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 11, 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 amendment to the Complaint on June 24, 2024.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform disputed domain name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform disputed domain name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform disputed 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 June 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 15, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 22, 2024.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on July 23, 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 following facts are undisputed.

The Complainant is the business entity that operates Paramore, an American rock band. Founded in 2004, Paramore has received critical acclaim throughout the world with numerous awards and nominations in the music industry, including winning multiple Grammy Awards. Over the last two decades, Paramore has released six studio albums and several singles, many of which have become certified platinum in the United States. Paramore currently consists three band members, Hayley Williams (lead vocalist), Taylor York (lead guitarist), and Zac Farro (drummer), and the band member's images are closely associated with the band, itself.

The Complainant is the owner of several trademark registrations for the word mark PARAMORE, including, but not limited to the following United States trademark registrations:

- PARAMORE, with registration number 3430716, registered on May 20, 2008 for services in class 41.
- PARAMORE, with registration number 3507475, registered on September 30, 2008 for goods in class 25.

The above-mentioned trademarks will hereinafter be referred to in singular as the "Trademark".

The Complainant includes a full listing of its trademarks, including the above. All of these registrations predate the registration of the disputed domain name on April 25, 2022.

The Complainant has a widespread and continuous use of the Trademark for over two decades and would be immediately recognizable among the trade and consumers in connection with music services and related goods and to have a reputation of excellence.

The Complainant also features its Trademark on its website "www.paramoreisaband.com", which comprises an embedded music video and links to Paramore's official YouTube channel. The Complainant uses both the <paramore.net> and <paramoreisaband.com> domain names, which were registered in 2000 and 2024, respectively.

Currently the disputed domain name does resolve to an active website.

Before, the disputed domain name resolved to a website containing images of the Paramore band members, information concerning the Paramore band, and goods featuring art associated with the Paramore band. When a Internet user would click on the "Shop" link on the website, it would be directed to a "Paramore Merch Store", hosted on the third-party platform ViralStyle, which allows companies to upload designs and sell merchandise using such designs.

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 the following.

The disputed domain name is confusingly similar to the Trademark. The disputed domain name incorporates the Trademark in its entirety. The addition of the descriptive term “merch” does not change the overall impression and does not make the disputed domain name any less confusingly similar to the Trademark.

The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with or connected to the Complainant in any way.

The Respondent has not used, and is not using or preparing to use, the disputed domain name in connection with bona fide offerings of goods or services. Instead, upon the Complainant’s discovery of the disputed domain name, the Complainant found that the Website contains countless uses of the Trademark, and attempts to fraudulently represent that the Website is actually a website published by, or sanctioned by, the Complainant. However, at no time has the Complainant ever licensed or authorized the Respondent to use the Trademark. Further, the Website offers knock-off goods by using the Trademark on products, such as T-shirts, sweaters, mugs and phone cases, alongside unauthorized images of the Paramore band and the band’s album cover art.

The Respondent is not commonly known as by the disputed domain name. Furthermore, there is no evidence that the Respondent might have used the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant’s trademark. Instead, the offering for sale of knock-off merchandise does not amount to a bona fide offering of goods or services or to a legitimate noncommercial or fair use of the disputed domain name.

The Respondent’s use of the disputed domain name is the epitome of bad faith. As a general proposition, “bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark”. Using the Complainant’s images and the Trademark to sell knock-off product is certainly taking unfair advantage of or otherwise abusing the Trademark.

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 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 Trademark 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 terms here, “merch” 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 Trademark 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 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.

Panels have held that the use of a domain name for illegal activity here, claimed as applicable to this case: sale of counterfeit goods and impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 notes that the Respondent has clearly attempted to impersonate the Complainant and its official merchandise website. As such the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s mark.

Panels have held that the use of a domain name for illegal activity as described above constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, which includes the fact that the Respondent failed to reply to the allegations made by the Complainant, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <paramoremerch.com> be transferred to the Complainant.

/Willem J. H. Leppink/

Willem J. H. Leppink

Sole Panelist

Date: August 6, 2024