

ADMINISTRATIVE PANEL DECISION

INTERPARFUMS v. DODSONCLAYTON

Case No. D2024-3142

1. The Parties

The Complainant is INTERPARFUMS, France, represented internally.

The Respondent is DODSONCLAYTON, United States of America (“USA”).

2. The Domain Name and Registrar

The disputed domain name <rochasfragrance.shop> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 31, 2024. On July 31, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 1, 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 (“Non communicated”) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 6, 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 August 8, 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 August 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 9, 2024.

The Center appointed Tobias Malte Müller as the sole panelist in this matter on September 13, 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 has been commercializing perfumes under the trademark ROCHAS for almost 100 years and is the registered owner of a large portfolio of trademarks throughout the world containing or consisting of the term ROCHAS, in particular, the following trademarks covering also the USA, where the Respondent is located:

- French Trademark No. 1436306 for ROCHAS notably for goods in classes 3, 18 and 25 dated November 20, 1987;
- USA Trademark No. 3110929 for ROCHAS in class for goods 3 dated July 4, 2006.

All the above trademarks have duly been renewed and are in force.

The disputed domain name was registered on July 23, 2024, and according to the undisputed evidence provided by the Complainant, it resolved to a website displaying the text "ROCHAS Best Selling" with the URL title "Shop the Best Rochas Cologne and Perfume Online", however, based on the evidence it appears no perfumes were sold on the website, but rather fake mustaches, which are not related to 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.

Notably, the Complainant contends that:

- (i) the disputed domain name is confusingly similar to the Complainant's trademark, since it includes the entirety of said trademark. The mere addition of the term "fragrance" does not eliminate any confusion, as it is descriptive and generic;
- (ii) the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, the Respondent is not commonly known by the Complainant's trademarks, and it is not authorized or licensed by the Complainant to use the trademarks as part of any domain name. Furthermore, the Respondent cannot claim any legitimate, non-commercial or fair use of the use of the disputed domain name, because there is no relationship with the Complainant;
- (iii) the disputed domain name was registered and is being used in bad faith. According to the Complainant, the disputed domain name is directing to a website which sells perfumes and fragrances. The Respondent is not authorized by the Complainant to use the trademark nor to sell third parties' perfumes under the Complainant's trademarks. Accordingly, the Respondent has chosen the disputed domain name deliberately to benefit from the Complainant's goodwill and reputation in order to gain commercial benefit.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to “decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”. Paragraph 4(a) of the Policy requires a complainant to prove each of the following three elements in order to obtain an order that each disputed domain name be transferred or cancelled:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the 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.

The Panel will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

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 trademarks or service marks in the term ROCHAS for the purposes of the Policy, [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the ROCHAS mark is recognizable within the disputed domain name, which consists of the trademark ROCHAS followed by the term “fragrance”. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy, [WIPO Overview 3.0](#), section 1.7.

The applicable Top Level Domain (“TLD”) “.shop” is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test, [WIPO Overview 3.0](#), section 1.11.

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.

The Panel notes that the disputed domain name is clearly constituted by the Complainant's registered trademark and a dictionary term (i.e. "fragrance") which is directly applicable to the products commercialized under the respective trademark ROCHAS. Accordingly, the Panel holds that the nature of the disputed domain name carries a risk of implied affiliation: in fact, the Panel considers this additional term as clearly referring to the Complainant's core field of commerce. Accordingly, in the Panel's view, the composition of the disputed domain name enhances the false impression that the disputed domain name is officially related to the Complainant and its official website promoting fragrances. This effectively impersonates or suggests sponsorship or endorsement by the trademark owner and does therefore not constitute fair use, see [WIPO Overview 3.0](#) at section 2.5.1.

The lack of rights and legitimate interests is also confirmed by the URL title of the website to which the disputed domain name resolves, "Shop the Best Rochas Cologne and Perfume Online", which purports to sell notably perfumes which are related to the Complainant. The Panel also notes that the website fails to disclose its lack of relationship with the Complainant.

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, it results from the Complainant's documented allegations that the disputed domain name resolves to a website displaying the text "ROCHAS Best Selling" with the URL title "Shop the Best Rochas Cologne and Perfume Online" which appears to sell fake mustaches, which are not related to the Complainant. For the Panel, it is therefore evident that the Respondent positively knew the Complainant's trademark. Consequently, and in the absence of any evidence to the contrary, the Panel is convinced that the Respondent also knew that the disputed domain name included the Complainant's trademarks when it registered the disputed domain name.

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.

In this regard, the further circumstances surrounding the disputed domain name's registration and use confirm the findings that the Respondent has registered and is using the disputed domain name in bad faith:

- (i) the nature of the disputed domain name exactly incorporating the Complainant's trademark plus a descriptive term which refers to the Complainant's core business under those marks and which indicates an intention on the part of the Respondent to confuse Internet users as to the source, sponsorship, affiliation, or endorsement of the Respondent's website and featured products;
- (ii) the content of the websites to which the disputed domain name directs, displaying the Complainant's trademark and purportedly, based on the URL title, offering perfumes, but actually featuring fake mustaches for sale;
- (iii) the Respondent's clear absence of rights or legitimate interests;
- (iv) the Respondent's use of a privacy service/the Respondent concealing its identity.

The Panel finds that the Complainant has established the third element of the Policy.

Furthermore, the Panel notes that under these circumstances the current non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3.

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 <rochasfragrance.shop> be transferred to the Complainant.

/Tobias Malte Müller/

Tobias Malte Müller

Sole Panelist

Date: September 27, 2024