

ADMINISTRATIVE PANEL DECISION

Greyson Clothiers, LLC v. WuLei
Case No. D2024-4587

1. The Parties

The Complainant is Greyson Clothiers, LLC, United States of America ("United States"), represented by Arnold & Porter Kaye Scholer LLP, United States.

The Respondent is WuLei, China.

2. The Domain Name and Registrar

The disputed domain name <greysongolfclothing.com> is registered with Realtime Register B.V. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 7, 2024. On November 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 14, 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 November 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 November 15, 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 November 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 6, 2024.

The Center appointed Kateryna Oliynyk as the sole panelist in this matter on December 16, 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 lifestyle apparel company that manufactures, markets, and sells various golf-themed apparel and other products in the United States and elsewhere under the GREYSON trademark. The Complainant operates its commercial retail website at the domain name <greysonclothiers.com> since as early as 2016.

The Complainant holds the following registrations for GREYSON trademark:

- United States Trademark Registration No. 6,901,409 for GREYSON, registered on November 15, 2022, for goods in International Class 25;
- United States Trademark Registration No. 5,916,919 for GREYSON, registered on November 19, 2019, for goods in International Class 25;
- United States Trademark Registration No. 5,638,642 for GREYSON & dev., registered on December 25, 2018, for goods in International Class 25; and
- United States Trademark Registration No. 5,591,104, for GREYSON, registered on October 23, 2018, for goods in International Classes 25 and 28.

The disputed domain name was created on June 22, 2024, and is being used to host a commercial retail website that ostensibly offers various clothing items purportedly originating from the Complainant at discounted prices. The website prominently features the GREYSON trademark and closely replicates the design and overall concept of the Complainant's original website.

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.

Identical or confusingly similar

The Complainant states that the disputed domain name is confusingly similar with the Complainant's trademark as the disputed domain name includes the Complainant's GREYSON trademark. The Complainant further contends that addition of the generic terms "golf" and "clothing" does not preclude the misleading similarity between the Complainant's GREYSON trademark and the disputed domain name.

Rights or legitimate interests

The Complainant contends that the Respondent lacks any rights or legitimate interests in the disputed domain name.

According to the Complainant's contentions, the Respondent has not used the disputed domain name in connection with a bona fide offering of goods or services, and has not been authorized, licensed, or otherwise permitted by the Complainant to register the disputed domain name.

The Complainant further claims that, given the widespread publicity and recognition of the GREYSON trademark throughout the United States and elsewhere, as well as the Respondent's use of the disputed domain name to sell purported GREYSON brand apparel, it is indisputable that the Respondent had knowledge of Complainant's marks prior to the registration of the disputed domain name.

The disputed domain name creates a likelihood of confusion amongst the public, because the disputed domain name falsely creates the impression that it is linked to the Complainant.

Registration and use in bad faith

The Complainant contends that the Respondent knew of the Complainant's trademark when registering the disputed domain name.

The Complainant further asserts that the disputed domain name in itself suggests at least an affiliation with the Complainant and its trademark.

The Complainant also alleges that that the Respondent must have been aware of the Complainant and its trademark when it registered the disputed domain name and that the Respondent uses the disputed domain name to intentionally attract and divert Internet users to its website in order to take advantage of the Complainant's reputation and goodwill.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: "[a] Panel shall 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 directs that the Complainant must prove each of the following:

- i. that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- ii. that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- iii. that the disputed domain name has been registered and is being used in bad faith.

Considering that the Respondent did not reply to the Complainant's contentions, in order to determine whether the Complainant has met its burden as stated in paragraph 4(a) of the Policy, the Panel bases its decision on the statements and documents submitted in accordance with the Policy and the Rules.

Under paragraph 5(f) and paragraph 14(b) of the Rules, if a respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint, and where a party does not comply with any provision of the Rules, the Panel "shall draw such inferences therefrom as it considers appropriate".

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 GREYSON trademark is reproduced within the disputed domain name with the addition of terms “golf” and “clothing”.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the GREYSON trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, “golf” and “clothing”, may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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 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 there is no evidence that the Respondent is commonly known under the GREYSON trademark. According to the Complainant, it has not authorized the Respondent to use the GREYSON trademark nor the Complainant does carry out any activity for or has any business with the Respondent.

Further, the Panel notes that neither license nor authorization appears to have been granted to the Respondent to make any use of the Complainant’s GREYSON trademark, or to apply for registration of the disputed domain name by the Complainant.

According to the Complainant, the Respondent has used the disputed domain name in connection with a commercial website featuring the GREYSON trademark and where, as per the Complaint, counterfeit GREYSON products have been advertised or sold. The Respondent’s website also mimics the Complainant’s website in terms of graphics and imagery and replicates the Complainant’s GREYSON trademark.

Based on the current record, the Panel cannot make a conclusion if the GREYSON products sold on the website at the disputed domain name are counterfeits or not. However, the Panel need not make a determination as to the genuine nature of the goods offered.

According to section 2.8.1 of the [WIPO Overview 3.0](#)., panels have recognized that resellers, distributors, or service providers using a domain name containing the complainant's trademark – with other terms appended to the trademark as within the domain name to undertake sales or repairs related to the complainant's goods or services – may be making a bona fide offering of goods and services and thus have a legitimate interest in such domain name. Outlined in the “Oki Data test” (*Oki Data Americas, Inc. v. ASD Inc.*, WIPO Case No. [D2001-0903](#)), the following cumulative requirements will be applied in the specific conditions of a UDRP case:

- i. the respondent must actually be offering the goods or services at issue;
- ii. the respondent must use the site to sell only the trademarked goods or services;
- iii. the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and
- iv. the respondent must not try to “corner the market” in domain names that reflect the trademark.

Respectively, even if the website offers to sell authentic GREYSON products, the current case at least does not satisfy the third requirements under the Oki Data test because the evidence provided by the Complainant shows there is no accurate and prominent disclaimer regarding the Respondent's relationship with the Complainant shown on the website at the disputed domain name. The website included no information regarding the identity of the provider of the website, which was only identified as “Greyson Golf” on the website.

Further, the Panel agrees with the Complainant that the use of the disputed domain name by the Respondent has been designed to attract and mislead web users into believing that the Respondent has been authorized by the Complainant to promote and sell purported GREYSON apparel. Moreover, the composition of the disputed domain name, which incorporates the Complainant's trademark together with terms closely related to the Complainant's products, is inherently confusing as it effectively impersonates or suggests sponsorship or endorsement by the Complainant (see [WIPO Overview 3.0](#), section 2.5.1).

Panels have held that the use of a domain name for illegitimate activity, here the alleged impersonation/passing off, can never confer rights or legitimate interests on a respondent. See [WIPO Overview 3.0](#), section 2.13.1.

Therefore, the conduct of the Respondent fails to constitute a bona fide offering of goods or services, or legitimate noncommercial or fair use of the disputed domain name.

After a complainant has made a prima facie case, the burden of production shifts to a respondent to present evidence demonstrating rights or legitimate interests in the domain name. See [WIPO Overview 3.0](#), section 2.1.

Here, the Respondent has provided no evidence of any rights or legitimate interests in the disputed domain name. In the absence of any evidence rebutting the Complainant's prima facie case indicating the Respondent's lack of rights or legitimate interests in respect of the disputed domain name, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

The Panel therefore 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.

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.

Under paragraph 4(b)(iv) of the Policy, a panel may find bad faith when a respondent "[uses] the domain name to intentionally attempt to attract, for commercial gain, Internet users to [respondent's] website or other online location, by creating a likelihood of confusion with complainant's mark as to the source, sponsorship, affiliation, or endorsement of [respondent's] website or location or a product or service on [respondent's] website or location".

The Panel accepts that the Complainant's use and registration of the GREYSON trademark predated the Respondent's registration of the disputed domain name. The Respondent clearly knew of the Complainant's business and trademark as the disputed domain name is being used to resolve to a website purportedly offering products bearing the Complainant's trademark.

Furthermore, the Complainant has not licensed or otherwise permitted the Respondent to use its GREYSON trademark or to register the disputed domain name incorporating the Complainant's GREYSON trademark. Neither the Respondent is an authorized reseller and/or dealer of the Complainant's products.

In this case, the Panel concludes, on the balance of probabilities, that the Respondent's business and website are not genuine and that the disputed domain name was registered and has been used in order to target the Complainant's trademark and business goodwill. The Panel has reached this conclusion for the following reasons:

- The Respondent has failed to file a Response in the proceeding, or to make any reply to the Complainant's submissions that it has no rights or legitimate interests in respect of the disputed domain name and that it registered and has used the disputed domain name in bad faith;
- There is no evidence in the papers of the administrative proceedings to suggest any connection of the respondent with the any business named "Greyson Golf Clothing";
- the composition of the disputed domain name, which incorporates the Complainant's trademark together with terms closely related to the Complainant's products, is inherently confusing as it effectively impersonates or suggests sponsorship or endorsement by the Complainant;
- the use of the disputed domain name by the Respondent has been designed to attract and mislead Internet users into believing that the Respondent has been authorized by the Complainant to promote and sell purported GREYSON apparel.

The Panel concludes in the circumstances that the Respondent did not register the disputed domain name for the purposes of a bona fide business, but instead to take unfair advantage of the goodwill attaching to the Complainant's GREYSON trademark, which the Panel finds to be widely associated with golf, lifestyle, and activewear, and to attempt, for commercial gain, to attract Internet users to its website by creating a likelihood of confusion with the Complainant's trademark.

Panels have held that the use of a domain name for illegitimate activity here, claimed impersonation/passing off constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, 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 <greysongolfclothing.com> be transferred to the Complainant.

/Kateryna Oliinyk/

Kateryna Oliinyk

Sole Panelist

Date: January 6, 2025