

## ADMINISTRATIVE PANEL DECISION

Hill's Pet Nutrition, Inc. v. Osborne Ricky J  
Case No. D2024-4807

### 1. The Parties

Complainant is Hill's Pet Nutrition Inc., United States of America ("United States"), represented by Fross Zelnick Lehrman & Zissu, P.C., United States.

Respondent is Osborne Ricky J, United States.

### 2. The Domain Name and Registrar

The disputed domain name <hillpetfood.com> is registered with Gname.com Pte. Ltd. (the "Registrar").

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 20, 2024. On November 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 22, 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 Complainant on November 27, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on November 27, 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 Respondent of the Complaint, and the proceedings commenced on December 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 22, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on December 24, 2024.

The Center appointed Georges Nahitchevsky as the sole panelist in this matter on January 2, 2025. 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**

Complainant, Hill's Pet Nutrition, Inc., is an American company that produces pet food. In 1976, the Colgate Palmolive Company purchased Complainant. Complainant owns and uses the name and mark HILL'S in connection with its products and owns a number of trademark registrations for the HILL'S mark. These include registrations for the HILL'S mark in the United States (Registration Nos. 955,342, 1,417,169 and 2,060,554), the earliest of which issued to registration on March 13, 1973, in France (Registration No. 1742006) and in several other countries in Europe. Complainant owns and uses the domain names <hillspet.com> and <hillspet.fr> for websites in English and French, respectively, providing information concerning Complainant and its products.

Respondent is an individual based in New Mexico, United States. Respondent registered the disputed domain name on October 11, 2024. At some point thereafter, Respondent posted a French language website at the disputed domain name that featured Complainant's logo, and which purported to offer Complainant's products for sale in Euros.

On October 28, 2024, Complainant's counsel submitted a takedown request through Cloudflare. The website did not come down and remains active as of this date.

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, Complainant contends that it has strong rights in the HILL'S mark by virtue of its longstanding use of the HILL'S mark and its several trademark registrations for that mark. Complainant asserts that the disputed domain name is confusingly similar as it fully incorporates the HILL'S mark in its entirety and merely removes the apostrophe and letter "s". Lastly, Complainant argues that Respondent does not have a legitimate interest in the disputed domain name and is acting in bad faith as Respondent is not commonly known by the disputed domain name, has no relationship with Complainant and is using the disputed domain name to attract and redirect consumers to a website that is passing itself off as a website connected to Complainant for the purpose of purportedly selling Complainant's products. In that regard, Complainant contends that orders placed through Respondent's website have gone unfulfilled.

##### **B. Respondent**

Respondent did not reply to Complainant's contentions.

#### **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

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

- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

#### **A. Identical or Confusingly Similar**

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 1.2.1. Complainant has provided evidence that it owns trademark registrations for the HILL'S mark and that such issued to registration well before Respondent registered the disputed domain name.

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 Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Here, the disputed domain incorporates the HILL'S mark at the head of the disputed domain name, albeit without the apostrophe and letter "s". To be sure, the dominant component of Complainant's HILL'S mark is clearly identifiable in the disputed domain name. Although the addition of the descriptive words "pet food" at the tail of the disputed domain name may bear on the assessment of the second and third elements, the Panel finds the addition of such words does not prevent a finding of confusing similarity between the disputed domain name and the HILL'S mark for purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel thus finds that 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 a 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 that Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. 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.

Here, the disputed domain name is clearly based on Complainant's HILL'S mark, albeit without the apostrophe and letter "s" at the end of HILL. The addition of the term "pet food", which directly relates to Complainant's products, at the tail of the disputed domain name makes it more likely than not that the disputed domain name will mistakenly be seen by consumers as related to Complainant and its products. Indeed, the website to which the disputed domain name resolves prominently features Complainant's name and logo at the very top of every page, along with copies of photographs of Complainant's products and text that suggests that the website is an official website of Complainant. In all, the disputed domain name effectively impersonates Complainant and thus, on its face, carries a high risk of implied affiliation. As such, it is hard to see how Respondent could have any rights or legitimate interests in the disputed domain name.

[WIPO Overview 3.0](#) at section 2.5.1.

Further confirming Respondent's lack of rights or legitimate interests in the disputed domain name is Respondent's attempt to pass off the website as a website operated by Complainant. The website prominently features Complainant's HILL'S mark and logo, uses Complainant's product photographs and includes much text that is designed to make the website appear like an official French language website of Complainant for its products, when in fact Respondent has no relationship or connection to Complainant. Underscoring Respondent's lack of legitimate interest, even if Respondent is in fact selling genuine HILL'S products, is the absence of any legitimate disclaimer to dispel the lack of connection between Complainant and Respondent, the use of a bogus contact address in Toulouse, France and the possibility Respondent is accepting customer's orders without actually fulfilling them.

Based on the foregoing, 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 view of Respondent's actions, and failure to appear in this proceeding, it is easy to infer that Respondent's registration and use of the disputed domain name that essentially plays on Complainant's HILL'S mark in combination with words that directly relate to the very products sold by Complainant has been done in bad faith and opportunistically for the benefit or profit of Respondent. The disputed domain name essentially impersonates Complainant and was registered well after Complainant had established rights in its HILL'S mark. Indeed, Respondent has used the disputed domain name with a website, as noted above, that prominently features the HILL'S mark, copies product images from Complainant's website and includes much text that is meant to pass off the website as authorized by or affiliated with Complainant, when such is not the case. In all, Respondent's actions, including the registration of the disputed domain name based on the HILL'S mark, makes it clear that Respondent was fully aware of Complainant and its HILL'S mark and specifically chose to target Complainant in bad faith.

The Panel finds that 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 <hillpetfood.com> be transferred to Complainant.

*/Georges Nahitchevansky/*

**Georges Nahitchevansky**

Sole Panelist

Date: January 16, 2025