

ADMINISTRATIVE PANEL DECISION

CULT BEAUTY LIMITED v. Danielle Tice

Case No. D2024-5079

1. The Parties

The Complainant is CULT BEAUTY LIMITED, United Kingdom, represented by HGF Limited, United Kingdom.

The Respondent is Danielle Tice, United States of America.

2. The Domain Name and Registrar

The disputed domain name <cultbeautycosmetic.com> is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 10, 2024. On December 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Whois Privacy Protection Foundation) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 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 amended Complaint on December 13, 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 December 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 5, 2025. The Respondent sent an email communication to the Center on December 13, 2024. The Center informed the Parties that it would proceed to panel appointment on January 7, 2025.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on January 10, 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. The Respondent sent another email to the Center on the same day, which was forwarded to the Panel.

4. Factual Background

The Complainant was founded in 2007 and operates worldwide in the retail of beauty products and supplies. It enjoys certain reputation amongst its consumers, is frequently referenced in global media and has received numerous awards for its beauty website.

The Complainant is the owner of trademark CULT BEAUTY registered in multiple jurisdictions including the United States of America ("United States"), the United Kingdom and the European Union, among others:

- United States trademark registration no. 7430871 CULT BEAUTY in class 3, registered on July 2, 2024;
- United States trademark registration no. 6160665 CULT BEAUTY in classes 4, 8, 18, 21 and 35, registered on September 29, 2020;
- United States trademark registration no. 4378248 CULT BEAUTY in classes 18 and 35, registered on August 6, 2013.

The Complainant also owns the domain name <cultbeauty.com>, which was registered on February 21, 2000, and is used as its official website to offer beauty products and services.

The disputed domain name was registered on July 8, 2024, and resolves to a website that purports to operate as an online beauty retail business. The products offered for sale by the Respondent are similar to those offered under the CULT BEAUTY trademark by the Complainant, including the same third-party brands. Additionally, while the Respondent's website uses different colors, its layout is similar, featuring tabs such as "Cult Conscious". The "Brands" tab on the Respondent's website closely mirrors the Complainant's "Brands" tab, with third-party brands listed in the same chronological order

In the "About Us" section, it provides a description of how the CULT BEAUTY brand was founded, including a quotation from the Complainant's co-founder. This quotation, along with the accompanying imagery, is identical to information previously published on the Complainant's official website at "cultbeauty.com". On December 13, 2024, the Respondent sent an email to the Center stating: "This company is not associated with your company". After the Center notified the Panel Appointment of this proceeding, on January 10, 2025, the Respondent sent an email stating: "Stop sending me this messages. I keep telling you that I'm not associated with cult beauty. I am CULT BEAUTY COSMETICS".

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

(1) The disputed domain name is identical or confusingly similar to the Complainant's trademark, since it contains the Complainant's CULT BEAUTY trademark in its entirety, whereas addition of the term "cosmetics" only serves to indicate the type of products offered for sale via the disputed domain name.

(2) The Respondent has no rights or legitimate interests over the disputed domain name. The Respondent has no bona fide intention of offering the goods listed for sale to customers. The Respondent is

misleading consumers into believing that the website under the disputed domain name is economically connected to the Complainant which it is not. The Respondent is not making legitimate use of the trademarks through the disputed domain name.

(3) The Respondent is acting in bad faith by registering and using the disputed domain name with the primary intent of exploiting the likelihood of confusion with the Complainant's trademark and business name. This constitutes a clear and direct abuse of the Complainant's trademark and demonstrates the Respondent's bad faith under the Policy. The disputed domain name replicates identical layouts, titles, and imagery as those on the Complainant's legitimate website. Through the content hosted on the website under the disputed domain name, the Respondent is attempting to pass itself off as the Complainant. The Complainant sent notices to the Respondent in October 2024, to which the Respondent replied, stating: "This domain is not associated with your company". An additional cease and desist letter was sent to the Respondent on November 14, 2024. The Respondent replied via the email address "[...]@cultbeautycosmetic.com", stating: "To whom it may concern, we are not associated with Cult Beauty. Thank you."

The Complainant requested that the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules provides that the Panel is to decide the Complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable.

The onus is on the Complainant to make out its case and it is apparent, both from the terms of the Policy and the decisions of past UDRP panels, that the Complainant must show that all three elements set out in paragraph 4(a) of the Policy have been established before any order can be made to transfer the disputed domain name. In UDRP cases, the standard of proof is the balance of probabilities.

To succeed in a UDRP complaint, the Complainant has to demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, namely:

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

The Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the Complaint, the Panel's decision shall be based upon the Complaint.

However, even if the Respondent has not formally replied to the Complainant's contentions, the Complainant still bears the burden of proving that all these requirements are fulfilled. Concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 4.3.

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views captured therein.

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 mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the evidence submitted by the Complainant, the Panel finds that the Complainant has shown rights in respect of its CULT BEAUTY mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The inclusion of the term "cosmetic" does not prevent the finding of confusing similarity between the disputed domain name and the Complainant's CULT BEAUTY mark. [WIPO Overview 3.0](#), section 1.8. Accordingly, the disputed domain name is confusingly similar to the Complainant's marks under the Policy, as further supported by [WIPO Overview 3.0](#), section 1.7.

The generic Top-Level Domain ".com" in the disputed domain name should be viewed as a standard registration requirement and disregarded. [WIPO Overview 3.0](#), section 1.11.1.

The Panel therefore 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 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.

The Panel finds that the Respondent has not been commonly known by the disputed domain name.

As it stands from the available record, the Complainant has not licensed, authorized, or permitted the Respondent to register the disputed domain name incorporating the Complainant's mark. The Panel also takes into account that the Respondent is not sponsored by or legitimately affiliated with the Complainant in any way.

There is no evidence to suggest that the Respondent has used or made demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services. Instead, the Respondent is using the disputed domain name to resolve to a website that contains identical layouts, titles, and imagery as those appearing on the Complainant's legitimate website. Panels have categorically held that the use of a domain name for illegitimate activity (in this case, impersonation/passing off) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

There is no evidence to suggest that the Respondent has used or made demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services. Instead, the Respondent is using the disputed domain name which resolves to a website that offers similar products as it appears on the Complainant's legitimate website. Panels have categorically held that the use of a domain

name for illegitimate activity (in this case – impersonation/passing off) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Complainant also submitted a report by a private investigator attempting to prove that the disputed domain name is a scam. The report contains information about an order of certain products through the website; however, it is not clear from the report whether the investigator received the order, making it impossible to conclusively determine if the website under the disputed domain name is a scam.

At the same time, the conclusion of the Complainant made above is sufficient to establish 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 case and has failed to provide any relevant evidence demonstrating rights or legitimate interests in the disputed domain name as outlined in the Policy or otherwise.

Noting the above, 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.

According to section 3.2.2 of the [WIPO Overview 3.0](#), “noting the near instantaneous and global reach of the Internet and search engines, and particularly in circumstances where the complainant's mark is widely known (including in its sector) or highly specific, and a respondent cannot credibly claim to have been unaware of the mark, panels have been prepared to infer that the respondent knew, or have found that the respondent should have known, that its registration would be identical or confusingly similar to a complainant's mark. Further factors including the nature of the domain name, the chosen top-level domain, any use of the domain name, or any respondent pattern, may obviate a respondent's claim not to have been aware of the complainant's mark”.

The Panel finds that, in the present case, relevant circumstances – including the incorporation of the Complainant's well-known trademark into the disputed domain name, the choice of the Top-Level Domain “.com”, and the use of the disputed domain name to resolve to an online beauty retail business with titles, and imagery similar to those of the Complainant – confirm that the Respondent knew of and targeted the Complainant and its trademark when registering the disputed domain name. Such conduct constitutes bad faith.

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 website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location is evidence of registration and use in bad faith.

Further, as stated above the Respondent's use of the disputed domain names falsely creates the impression that it is associated with the Complainant. Therefore, under this Panel's view, the Respondent intended to attract Internet users accessing the website corresponding to the disputed domain name who may be confused and believe that the websites are held, controlled by, or somehow affiliated or related to the Complainant, for its commercial gain.

Panels have held that the use of a domain name for illegitimate activity (e.g., impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Based on the available record, the Panel finds the third element of the Policy has been established.

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 <cultbeautycosmetic.com> be transferred to the Complainant.

/Ganna Prokhorova/

Ganna Prokhorova

Sole Panelist

Date: January 17, 2025