

## ADMINISTRATIVE PANEL DECISION

The Founders Inc. v. Bergeron Richard  
Case No. D2024-5284

### 1. The Parties

Complainant is The Founders Inc., Republic of Korea, represented by Marq Vision Inc., United States of America.

Respondent is Bergeron Richard, United States of America.

### 2. The Domain Name and Registrar

The disputed domain name <anuabeauty.shop> (the “Domain Name”) 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 December 23, 2024. On December 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 25, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from named Respondent (Unknown) and contact information in the Complaint. The Center sent an email communication to Complainant on December 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 amendment to the Complaint on January 2, 2025.

The Center verified that the Complaint together with the amendment to the 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 January 7, 2025. In accordance with the Rules, paragraph 5, the due date for Response was January 27, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on January 31, 2025.

The Center appointed Clive L. Elliott K.C., as the sole panelist in this matter on February 5, 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 is a registered Korean company that has been in business since 2017 in the manufacture of perfumes and cosmetics. It is recognized for its flagship skincare brand, ANUA.

Complainant is the registered owner of the trade mark ANUA (Complainant's Mark) as follows:

Mark	Jurisdiction	Registration No.	Registration Date	Class
<b>anua</b> 아누아	International [Madrid]	1546316	July 1, 2020	3
<b>anua</b> 아누아	International [United States of America]	6458219	August 24, 2021	3

According to the publicly available WhoIs, the Domain Name was registered on August 7, 2024, and as at the date of this Complaint, the Domain Name resolved to a website that prominently displays Complainant's Mark in the top-left corner of the page. The website claims to offer services identical or similar to those of Complainant, using product photos from various cosmetic brands, including altered versions of official sales images from Complainant's home page.

#### 5. Parties' Contentions

##### A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

Notably, Complainant contends that the Domain Name is confusingly similar to Complainant's Mark as it consists of Complainant's Mark in its entirety followed by the commonly used English word "beauty" and the generic Top-Level Domain ("gTLD") ".shop". The combination of "ANUA" with "beauty", a term closely associated with Complainant's industry, results in a domain name that closely resembles Complainant's Mark and brand identity.

Complainant states that it actively promotes Complainant's Mark through its official website, accessible via the domain name <anua.kr>.

Complainant also submits that the Domain Name has been registered and is being used in bad faith evidenced by the fact that Complainant is well known and as such at the time of registration Respondent must have been aware of Complainant and Complainant's Mark. Complainant alleges that Respondent has no rights or legitimate interests in respect of the Domain Name as it is not commonly known by the Domain Name, there is no relationship between Complainant and Respondent, and further, Respondent is not engaged in a bona fide offering of goods or services.

Complainant states that Respondent's intentional misrepresentation of the Domain Name seeks to create a false impression of affiliation with or representation of Complainant, thereby exploiting the Domain Name for commercial gain.

## **B. Respondent**

Respondent did not reply to 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 Complainant's Mark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

Complainant's Mark is recognizable within the Domain Name. That is, the Domain Name contains Complainant's Mark as the dominant element of the Domain Name but includes the English word "beauty" and the gTLD ".shop". Accordingly, the Domain Name is confusingly similar to Complainant's Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of the above word "beauty" may be relevant in terms of assessing the second and third elements, the addition of the word does not, in and of itself, prevent a finding of confusing similarity between the 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 Respondent may demonstrate rights or legitimate interests in the 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 respondent lacks rights or legitimate interests, the burden of production on this element shifts to respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the Domain Name (although the burden of proof always remains on complainant). If respondent fails to come forward with such relevant evidence, complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Based on the record, the Panel finds that Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Domain Name. Respondent has failed to rebut Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name such as those enumerated in the Policy or otherwise.

In the present case, Complainant alleges that Respondent has no rights or legitimate interests in respect of the Domain Name as Respondent is not commonly known by the Domain Name, and there is no relationship between Complainant and Respondent. Effectively, it appears that Respondent used the Domain Name for

a website offering services identical or similar to Complainant using product photos from various cosmetic brands, including altered versions of official sales images from Complainant's home page reinforcing the false sense of affiliation to Complainant.

Such activity on its own is not indicative of any rights or legitimate interests. Instead, it carries a risk that the Domain Name may be used to impersonate Complainant. In this regard, the composition of the Domain Name, incorporating Complainant's distinctive trade mark with the word "beauty" does not diminish the confusing similarity between the Domain Name and Complainant's Mark. The Panel concludes that the composition of the Domain Name carries a risk of implied affiliation and will not be considered as fair use. [WIPO Overview 3.0](#), section 2.5.1.

Accordingly, 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.

The Panel further notes that the composition of the Domain Name, incorporating Complainant's distinctive mark with a term related to its operations namely "beauty" products, suggests Respondent knew of and sought to take advantage of Complainant's Mark when registering the Domain Name.

Respondent has not put forward any credible explanation for the choice of the Domain Name, and the Panel considers that the Domain Name use for a webstore allegedly offering similar or identical services to Complainant is misleading or deceptive, falsely suggesting a connection with Complainant.

Panels have held that the use of a domain name for illegitimate activity here, claimed sale of counterfeit goods and impersonation/passing off constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

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 Domain Name <anuabeauty.shop> be transferred to Complainant.

*/Clive L. Elliott K.C./*

**Clive L. Elliott K.C.**

Sole Panelist

Date: February 21, 2025