

ADMINISTRATIVE PANEL DECISION

Belgravia Wood Limited v. BergeronRichard
Case No. D2025-0027

1. The Parties

The Complainant is Belgravia Wood Limited, British Virgin Islands, United Kingdom, represented by Troutman Pepper Locke, United States of America (“United States”).

The Respondent is BergeronRichard, United States.

2. The Domain Name and Registrar

The disputed domain name <poolfunsicle.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 January 4, 2025. On January 6, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 7, 2025, 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 (Unlisted Owner) and contact information in the Complaint. The Center sent an email communication to the Complainant on the same day, 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 the same day.

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 January 8, 2025. In accordance with the Rules, paragraph 5, the due date for Response was January 28, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 29, 2025.

The Center appointed William F. Hamilton as the sole panelist in this matter on January 31, 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

The Complainant's product lines include above-ground pools, inflatable pools, pool accessories, and a variety of pool toys and aquatic products. The Complainant's principal public facing website is reached from the Complainant's domain <funsicle.com>.

The Complainant owns two registrations of the FUNSICLE trademark (the "Mark") with the United States Patent and Trademark Office: Reg. No. 7,356,751, dated April 9, 2024, and Reg. No. 7,516,586, dated September 24, 2024.

The disputed domain name was registered on August 7, 2024. The disputed domain name resolves to a website selling pools and pool related products that competes with the pool products sold by the Complainant. The Respondent's website prominently features the Mark.

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 the disputed domain name is confusingly similar to the Mark because the disputed domain name incorporates the Mark entirely and is only preceded by the generic or descriptive term "pool." The Complainant contends that the Complainant has never authorized the Respondent to use the disputed domain name, that the Respondent is not generally known by the disputed domain name, has never operated a business under the disputed domain name, has not advertised the disputed domain name, and has never engaged in any bona fide commercial activity in connection with the disputed domain name. The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name and has registered and used the disputed domain name in bad faith to unfairly compete with the Complainant and otherwise disrupt the Complainant's business.

B. Respondent

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

6. Discussion and Findings

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

- (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 was registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has shown rights in the Mark for the purposes of the Policy by virtue of its United States registrations of the Mark.

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 disputed domain name incorporates the Mark in its entirety and merely adds the term "pool." Previous UDRP panels have consistently found that merely adding additional terms to a trademark results in confusing similarity. Accordingly, the Panel finds the disputed domain name is confusingly similar to the Complainant's Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The generic Top-Level Domain ("gTLD") of the disputed domain name, in this case ".shop," may be disregarded for the purposes of assessment under the first element, as it is viewed as a standard registration requirement. [WIPO Overview 3.0](#), section 1.11.1.

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 finds that the Respondent has used the confusingly similar disputed domain name to compete with the Complainant. The offering of competing products under the disputed domain name does not establish any rights or legitimate interests of the Respondent in the disputed domain name in these circumstances.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Under paragraph 4(b) of the Policy, bad faith may be established by any one of the following non-exhaustive scenarios:

- (i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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.

The Respondent registered the disputed domain name after the Complainant's registration of the Mark. Given the Complainant's prior use of the Mark, the Respondent's use of the disputed domain name to offer the competing products, the prominent adoption of the Complainant's Mark on the Respondent's website, and the high similarity of the disputed domain name to the Mark, the Panel finds it implausible that the Respondent was unaware of the Complainant's rights in the Mark when registering the disputed domain name. The Panel finds that the Respondent adopted the Complainant's Mark in the confusing similar disputed domain name to offer competitive and pool related products with knowledge of the Complainant's Mark.

By using the disputed domain name to offer competitive products, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its by creating a likelihood of confusion with the Complainant's Mark as to source, sponsorship, affiliation, or endorsement. This constitutes evidence of registration and use in bad faith pursuant to paragraph 4(b)(iv) of 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 <poolfunsicle.shop> be transferred to the Complainant.

/William F. Hamilton/

William F. Hamilton

Sole Panelist

Date: February 5, 2025