

ADMINISTRATIVE PANEL DECISION

Emeis Cosmetics Pty Ltd (trading as Aesop) and L'Oréal v. [Details Not Provided by Registrant]

Case No. D2025-0310

1. The Parties

The Complainants are Emeis Cosmetics Pty Ltd (trading as Aesop), Australia (the "First Complainant"); and L'Oréal, France (the "Second Complainant"), represented by Dreyfus & associés, France.

The Respondent is [Details Not Provided by Registrant], United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <aesopbeauty.shop> (the "Domain Name") is registered with Sav.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 27, 2025. On January 27, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 27, 2025, the Registrar transmitted by email to the Center its verification response disclosing the registration information for the Domain Name which differed from the named Respondent (Not disclosed) and contact information in the Complaint¹. The Center sent an email communication to the Complainants on January 28, 2025, providing the registration information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on January 29, 2025.

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 30, 2025. In accordance with the Rules, paragraph

¹ The Registrar indicated that "The owner didn't put their name on their domain WHOIS contact".

5, the due date for Response was February 19, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 20, 2025.

The Center appointed Piotr Nowaczyk as the sole panelist in this matter on February 21, 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 First Complainant is an Australian industrial group specializing in cosmetics and beauty. Founded in Melbourne in 1987, it offers a diverse range of products, including skincare, haircare, and body care, as well as accessories and fragrances for both personal and home use.

The Second Complainant is a global beauty company with a portfolio of 36 brands and a workforce of 87,400 employees. In accordance with the terms announced on April 3, 2023, the Second Complainant has acquired the First Complainant, integrating it into its brand portfolio.

The First Complainant is the owner of numerous AESOP trademark registrations, including:

- the International Trademark Registration for AESOP No. 1033291, registered on March 12, 2010;
- the International Trademark Registration for AESOP No. 1315608, registered on July 5, 2016; and
- the International Trademark Registration for AESOP No. 1769295, registered on August 19, 2023.

The Complainants also operate the domain name <aesop.com>, which incorporates the AESOP trademark.

The Domain Name was registered on July 11, 2024.

As of the date of this Decision, and at the time of submitting the Complaint, the Domain Name has directed users to an online store (the "Website") that purports to sell the Complainants' products, which the Complainants believe to be inauthentic, alongside those of third parties.

On October 21, 2024, the Second Complainant notified the Registrar and hosting provider, requesting the blocking of the Domain Name and the deactivation of the Website. However, despite multiple follow-ups, these requests remain unfulfilled.

5. Parties' Contentions

A. Complainants

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the Domain Name.

First, the Complainants contend that the Domain Name is confusingly similar to the trademark in which the Complainants have rights.

Second, the Complainants argue that the Respondent has neither rights nor legitimate interests in the Domain Name.

Third, the Complainants submit that the Domain Name was registered and is being used in bad faith.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy places a burden on the Complainants to prove the presence of three separate elements, which can be summarized as follows:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainants have rights;
- (ii) the Respondent has no rights or legitimate interests in the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

The requested remedy may only be granted if the above criteria are met. At the outset, the Panel notes that the applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence". See section 4.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

A. Identical or Confusingly Similar

Under the first element, the Complainants must establish that the Domain Name is identical or confusingly similar to the trademark in which the Complainants have rights.

The First Complainant holds valid AESOP trademark registrations. The Domain Name incorporates this trademark in its entirety. As numerous UDRP panels have held, incorporating a trademark in its entirety is sufficient to establish that a domain name is identical or confusingly similar to that trademark. See *PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.) and EMS COMPUTER INDUSTRY (a/k/a EMS)*, WIPO Case No. [D2003-0696](#).

The addition of the term "beauty" in the Domain Name does not prevent a finding of confusing similarity between the Domain Name and the AESOP trademark. Panels have consistently held that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. See section 1.8 of the [WIPO Overview 3.0](#).

The generic Top-Level Domain ("gTLD") ".shop" in the Domain Name is viewed as a standard registration requirement and as such is typically disregarded under the first element test. See section 1.11.1 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the Domain Name is confusingly similar to the Complainants' AESOP trademark for purposes of the Policy. In sum, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Under the second element, the Complainants must prove that the Respondent has no rights or legitimate interests in the Domain Name.

A right or legitimate interest in the Domain Name may be established, in accordance with paragraph 4(c) of the Policy, if the Panel finds any of the following circumstances:

- (i) that the Respondent has used or made preparations to use the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services prior to the dispute; or
- (ii) that the Respondent is commonly known by the Domain Name, even if the Respondent has not acquired any trademark rights; or
- (iii) that the Respondent is making a legitimate noncommercial or fair use of the Domain Name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark.

Although given the opportunity, the Respondent has not submitted any evidence indicating that any of the circumstances foreseen in paragraph 4(c) of the Policy are present in this case.

On the contrary, it results from the evidence on record that the Complainants' AESOP trademark registrations predate the Respondent's registration of the Domain Name. There is no evidence in the case record that the Complainants have licensed or otherwise permitted the Respondent to use the AESOP trademark or to register the Domain Name incorporating this trademark. There is also no evidence to suggest that the Respondent has been commonly known by the Domain Name.

Moreover, it results from the evidence on record that the Respondent does not make use of the Domain Name in connection with a bona fide offering of goods or services, nor does it make a legitimate noncommercial or fair use of the Domain Name. On the contrary, the Domain Name resolves to the Website purportedly offering for sale the Complainants' products, along with the products of the third parties. Moreover, the Website prominently features the Complainants' AESOP trademark together with the Complainants' official marketing materials (e.g., the official product images). Such use of the Domain Name does not confer rights or legitimate interests on the Respondent as it falsely suggests an association with the Complainants.

The Respondent could make a bona fide offering of goods as a reseller or distributor of the Complainants' products, and thus have a legitimate interest in the Domain Name, if this use meets certain requirements as set out in *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#). While it does not result from the case record that the Respondent is authorized to resell or distribute the Complainants' products, taking into consideration the nature of the Domain Name as compared to the trademark, the Panel will for completeness analyze the "fair use" factors enumerated under the above-referenced "Oki Data test". These requirements are that: (1) the Respondent must actually be offering the goods at issue; (2) the Respondent must use the Website to sell only the trademarked goods, otherwise, it could be using the trademark to bait Internet users and then switch them to other goods; (3) the Website must accurately disclose the Respondent's relationship with the trademark owner; and (4) the Respondent must not try to corner the market in all domain names, thus depriving the trademark owner of reflecting its own mark in a domain name.

In the present case, the above referred requirements are not met. The Domain Name and the Website at least falsely suggest an affiliation with the Complainants and the AESOP trademark. The Panel believes that the use of the Complainants' trademark in the Domain Name and on the Website, misleads Internet users regarding the lack of relationship between the Respondent and the Complainants, as Internet users may falsely believe that the Respondent is an entity associated with the Complainants. At the same time, the relationship between the Respondent and the Complainants (or a lack thereof) is not disclosed on the Website. This further perpetuates the false impression of a relationship between the Respondent and the Complainants.

Moreover, the Respondent uses the Website to allegedly sell AESOP-branded products, which the Complainants believe to be inauthentic, alongside third-party goods. Thus, the Respondent misleads Internet users and diverts them to alternative products.

Given the above, there are no circumstances in evidence which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests of the Respondent in respect of the Domain Name. Thus, there is no evidence in the case record that refutes the Complainants' prima facie case. In sum, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Under the third element, the Complainants must prove that the Domain Name has been registered and is being used in bad faith.

Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. See section 3.1 of the [WIPO Overview 3.0](#).

Under paragraph 4(b) of the Policy, evidence of bad faith registration and use includes, without limitation:

- (i) circumstances indicating the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the owner of a trademark or to a competitor of the trademark owner, for valuable consideration in excess of the documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the domain name was registered in order to prevent the owner of a trademark from reflecting the mark in a corresponding domain name, provided it is a pattern of such conduct; or
- (iii) circumstances indicating that the domain name was registered primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the domain name has intentionally been used in an attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with a trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on a website or location.

As indicated above, the Complainants' rights in the AESOP trademark predate the registration of the Domain Name. This Panel finds that the Respondent was or should have been aware of the Complainants' trademark at the time of registration. This conclusion is supported by the composition of the Domain Name, which incorporates the AESOP trademark along with a term directly associated with the Complainants' business. Additionally, the content of the Website reinforces this finding, as it allegedly offers the Complainants' products - believed by the Complainants to be inauthentic - while prominently displaying the AESOP trademark alongside the Complainants' official product images. Moreover, it has been proven to the Panel's satisfaction that the Complainants' AESOP trademark is well-known and unique to the Complainants. Thus, the Respondent could not reasonably ignore the reputation of goods under this trademark. In sum, the Respondent, more likely than not, registered the Domain Name with the expectation of taking advantage of the reputation of the Complainants' AESOP trademark.

Furthermore, as previously noted, the Domain Name has been used in bad faith by the Respondent to resolve Internet users to the Website. The Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to this Website by creating a likelihood of confusion with the Complainants' trademark as to the source, sponsorship, affiliation, or endorsement of the Website.

Finally, the Panel concurs that the registrant address for the Domain Name, as disclosed by the Registrar, does not appear to be valid, further reinforcing evidence of bad faith.

For the reasons discussed above, 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 Domain Name <aesopbeauty.shop> be transferred to the Complainant. ²

/Piotr Nowaczyk/

Piotr Nowaczyk

Sole Panelist

Date: March 6, 2025

²In this regard, the Panel notes the Respondent did not provide a registrant or organization name when registering the Domain Name, nevertheless the concerned Registrar is directed to transfer the Domain Name to the Complainant irrespective of the named Respondent in this proceeding.