

ADMINISTRATIVE PANEL DECISION

Sun Taiyang Co., Ltd. v. huafen xie
Case No. D2025-0380

1. The Parties

The Complainant is Sun Taiyang Co., Ltd., United States of America (“United States”), represented by Cole Schotz P.C., United States.

The Respondent is huafen xie, China.

2. The Domain Name and Registrar

The disputed domain name <usoutreonsale.com> (the “Domain Name”) is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 30, 2025. On January 31, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 1, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on February 5, 2025, 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 February 11, 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 February 12, 2025. In accordance with the Rules, paragraph 5, the due

date for Response was March 4, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 5, 2025.

The Center appointed Jon Lang as the sole panelist in this matter on March 11, 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 is the exclusive rights owner of the OUTRE brand, which is the house brand of the Complainant. The OUTRE brand is a widely recognizable, leading premiere brand for hair weaves, wigs, braids and hair additions, with a nearly five-decade long reputation built on the highest quality standards.

The Complainant is the owner of United States Registration No.1,771,581 for the mark OUTRE, registered on May 18, 1993, and also United States Registration No. 4,869,522 for an OUTRE logo mark, registered on December 15, 2015, together referred to as the "OUTRE mark".

The Domain Name was registered on April 30, 2024 and resolves to a website (the "Respondent's website") purporting to sell OUTRE products as well as competing products.

5. Parties' Contentions

A. Complainant

Preliminary Comments

In or around June 2024, the Complainant discovered the Respondent's website, and its unlawful use of the OUTRE mark and logo to sell unauthorized hair products. The Respondent's website contained images of products copied directly from the Complainant's website. For example, at that time, the Complainant was selling a wig called the "Gabby" wig. The Respondent's website contained the same image, was also referred to as the "Gabby" wig.

On or about June 21, 2024, counsel for the Complainant emailed a DMCA Takedown Notice regarding the copyright images on the Respondent's website, and on the same day submitted an abuse complaint and a copyright complaint via the Registrar's webform. Shortly thereafter, the Respondent's website was taken down and listed as an inactive website. However, as of January 23, 2025, the Respondent's website is once again active and infringing the Complainant's intellectual property, pretending to be affiliated with the Complainant by displaying the OUTRE Logo and using the OUTRE brand to sell what is believed to be counterfeit hair products. The unauthorized "Gabby" wig is still on sale.

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name. Below is a summary of its main assertions.

The Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Domain Name is confusingly similar to the Complainant's registered trademark and contains the entirety of the Complainant's valuable brand.

Moreover, the Respondent is displaying the Complainant's OUTRE brand at the top of its website suggesting that it is hosted by, or affiliated with the Complainant.

The Respondent has no rights or legitimate interests in respect of the Domain Name.

Given the Complainant's strong registered and common law rights in the OUTRE brand, and that OUTRE has been a well-established brand for years before the Respondent registered the Domain Name, the Respondent has no rights with respect to the OUTRE mark or the Domain Name.

The Respondent does not have a license or permission from the Complainant to use the Complainant's trademark and other intellectual property.

There is no evidence of the Respondent's use, or demonstrable 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. Indeed, its website is intentionally and blatantly copying the Complainant's intellectual property, misleading consumers into purchasing goods purporting to be legitimate OUTRE products that they would otherwise purchase from the Complainant.

There is no evidence that the Respondent has been commonly known by the name "Outre" or has ever operated a genuine business or any activity under the "Outre" name. On the contrary, the Respondent's use of the Domain Name serves to mislead potential and existing customers of the Complainant seeking to purchase authentic OUTRE products.

The Respondent is not making a legitimate non-commercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Domain Name was registered and is being used in bad faith.

The Respondent has improperly registered the Domain Name and is using it in bad faith to deceive the Complainant's customers into purchasing competing and inauthentic OUTRE products.

The Respondent has copied content directly from the Complainant's website. It sells on its website the same type of products as the Complainant which are identified by the Complainant's brand and photographs.

It is beyond question that the Respondent is infringing the Complainant's intellectual property rights intentionally and in bad faith to mislead consumers, that the Respondent was aware of the Complainant and the Complainant's well-known OUTRE mark when registering the Domain Name and there can be no plausible good faith use of the Domain Name by the Respondent.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy requires a complainant to prove: (i) that a respondent has registered a domain name which is identical or confusingly similar to a trademark or service mark in which a complainant has rights; (ii) that the respondent has no rights or legitimate interests in respect of the domain name; (iii) that the domain name has been registered and is being used in bad faith. A complainant must prove each of these three elements to succeed.

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 trademark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

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

The entirety of the mark is reproduced within the Domain Name. Accordingly, the Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms within the Domain Name, here, "us" (preceding "outré") and "onsale" (following "outré"), may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not 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 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.

A respondent can show it has rights to or legitimate interests in a domain name in various ways even where, as is the case here, it is not licensed by or affiliated with a complainant. For instance, it can show that it has been commonly known by the domain name or that it 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 or service mark at issue. Here, however, the Respondent is not known by the Domain Name, and given the nature of the website to which the Domain Name resolves as described earlier, it cannot be said that there is legitimate noncommercial use. As to an absence of an intent to mislead (for commercial gain), the Respondent's choice of Domain Name, a key element of which is the Complainant's OUTRE mark with the addition of words that could readily be associated with the Complainant *i.e.* "us" (its place of domicile) and "onsale" (indicating an online shop), suggests the very opposite. In these circumstances, the use, such as it is, could not be regarded as fair either.

A respondent can also show that it is using a domain name in connection with a bona fide offering of goods or services. However, it seems clear that the Respondent set out to acquire a domain name that would create a misleading impression of association with the Complainant, which has then been used to resolve to a website selling inauthentic OUTRE products and other competing products. In these circumstances, it would be difficult to accept that such use could amount to a bona fide offering of goods or services for the purposes of the Policy.

Panels have held that the use of a domain name for illegitimate activity, e.g. the sale of counterfeit goods or impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Having reviewed the available record, the Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has not rebutted the Complainant's prima facie case 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 indeed any evidence at all.

In all the circumstances, the Panel finds that the Complainant has fulfilled the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The Respondent must have been aware of the Complainant and its OUTRE mark at the time of registration of the Domain Name given its formulation and use.

One way a complainant may demonstrate bad faith registration and use (as set out in paragraph 4(b)) is to show that a respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with a complainant's mark as to the source, sponsorship, affiliation or endorsement of its website or of products or services on it.

The purpose behind registration of the confusingly similar Domain Name appears to have been to attract Internet users to the Respondent's website on which it misuses the Complainant's OUTRE mark to sell inauthentic OUTRE products and/or competing products for commercial gain. In other words, the very circumstances envisaged above.

Moreover, panels have held that the use of a domain name for illegitimate activity, e.g. the sale of counterfeit goods or impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

The Panel finds that, for the purposes of the Policy, there is evidence of both registration and use of the Domain Name in bad faith and that therefore the third element of the Policy has been established.

7. Decision

For all the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Name <usoutreonsale.com> be transferred to the Complainant.

/Jon Lang/

Jon Lang

Sole Panelist

Date: March 25, 2025