

ADMINISTRATIVE PANEL DECISION

Hill's Pet Nutrition, Inc. v. Avni Moolya Moolya, N A
Case No. D2025-0394

1. The Parties

Complainant is Hill's Pet Nutrition, Inc., United States of America ("United States" or "U.S."), represented by Fross Zelnick Lehrman & Zissu, PC, U.S.

Respondent is Avni Moolya Moolya, N A, U.S.

2. The Domain Name and Registrar

The disputed domain name <hillspetcare.com> (the "Disputed Domain Name") is registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 31, 2025. On February 3, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On February 4, 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 ("REDACTED FOR PRIVACY (DT), N A") and contact information in the Complaint. The Center sent an email communication to Complainant on February 4, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on February 4, 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 Respondent of the Complaint, and the proceedings commenced on February 6, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 26, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on March 5, 2025.

The Center appointed Richard W. Page 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

In the late 1930s, Dr. Morris Frank developed Raritan Ration B, a pet food that was the forerunner of Hill's Prescription Diet k/d Canine that was developed for dogs with renal failure and insufficiency. In 1948, Dr. Morris contracted with Burton Hill of the Hill Packing Company in the United States to can the food with a new name, Canine k/d, and licensed Hill to produce his pet food formulas. In the following years, the partnership between Dr. Morris and the Hill Packing Company evolved into Hill's Pet Nutrition, and it continued to grow and add formulas of therapeutic pet food to its Prescription Diet line of products. The line has continued to expand, and today includes more than 50 pet foods formulated for many lifestages and special needs in healthy pets. In 1976, the Colgate-Palmolive Company purchased Hill's Pet Nutrition.

Complainant is the owner of longstanding federal registrations for its HILL'S mark in the United States (the "HILL'S Mark"), including:

U.S. Registration No. 955342 registered March 13, 1973, for HILL'S in international class 31;
U.S. Registration No. 1417169 registered November 18, 1986, for HILL'S in international class 5; and
U.S. Registration No. 2060554 registered May 13, 1997, for HILL'S in international class 31.

In addition, Complainant owns multiple registrations for its HILL'S Mark around the world.

Complainant, either on its own or through affiliated companies, owns and operates the domain names and associated websites <hillspet.com> and <hillspet.fr>. Complainant conducts all of its email communications through email addresses using the <hillspet.com> domain name.

The Disputed Domain Name was registered on November 18, 2024, and resolves to a website which uses Complainant's logos and product images without permission, and offers to sell Complainant's HILL'S pet food products.

5. Parties' Contentions

A. Complainant

Complainant contends that the Disputed Domain Name is confusingly similar to the HILL'S Mark because it includes the entirety of the HILL'S Mark, merely adding the terms "pet" and "care."

Complainant further contends that the Disputed Domain Name does not include the apostrophe found in the HILL'S Mark, which is irrelevant for purposes of determining similarity since it is impossible to include an apostrophe in a domain name given ICANN limitations. Accordingly, the omission of an apostrophe in a domain name does not change the identity of the original word.

Complainant submits that at no time did Complainant ever authorize or permit Respondent's registration of the Disputed Domain Name, or any domain name, incorporating the HILL'S Mark. There is no relationship between Complainant and Respondent that would give rise to any license, permission or authorization for Respondent to use or register the Disputed Domain Name.

Complainant further submits that the Disputed Domain Name is currently being used in connection with a copycat website that purports to offer HILL'S pet food products, thus impersonating Complainant. Complainant further submits that the website associated with the Disputed Domain Name is passing itself off

as Complainant's own website, purportedly offering Complainant's pet food products and stealing Complainant's images to do so. Trading on Complainant's fame does not constitute a bona fide use. Complainant further submits that Respondent is not commonly known by the Disputed domain Name, as shown by its registration information and website.

Complainant further submits that it has never sold its HILL'S products directly to Respondent nor has Respondent ever been authorized to sell HILL'S products. Furthermore, Respondent has never been authorized to use the HILL'S Mark for any purpose. As a result, the use of the HILL'S Mark in the Disputed Domain Name cannot be considered a fair use. To the contrary, the Disputed Domain Name and the associated website is tarnishing the reputation and goodwill of Complainant and its HILL'S Mark.

Complainant alleges that the only conceivable reason that Respondent could have for registering and using the Disputed Domain Name is that Respondent knew of the HILL'S Mark and wanted to trade on Complainant's renown to misdirect Complainant's customers to Respondent's unofficial website which is indicative of bad faith.

Complainant further alleges that Respondent registered the Disputed Domain Name on November 18, 2024, long after Complainant had established rights in the HILL'S Mark through extensive use. Therefore, Respondent had knowledge of Complainant's rights in the HILL'S Mark when it registered the Disputed Domain Name.

Complainant further alleges that Respondent's website to which the Disputed Domain Name resolves contains false contact information. For example, the postal address in the "Contact Us" section of the website is false and the zip code shown at the website is incorrect. Furthermore, the telephone number provided by Respondent includes an area code from Georgia, not California (the Whois address) or Wisconsin (the website address), where Respondent is purportedly located.

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

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: "A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable."

Even though Respondent has failed to file a Response or to contest Complainant's assertions, the Panel will review the evidence proffered by Complainant to verify that the three essential elements are met. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3.

Paragraph 4(a) of the Policy directs that Complainant must prove each of the following three essential elements:

- i) that the Disputed Domain Name registered by Respondent is identical or confusingly similar to the HILL'S Mark in which Complainant has rights; and,
- ii) that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and,
- iii) that the Disputed Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

[WIPO Overview 3.0](#), section 1.2.1 states that registration of the HILL'S Mark is prima facie evidence of Complainant having enforceable rights in the HILL'S Mark.

Complainant has shown rights in respect of the HILL'S Mark for the purposes of the Policy.

[WIPO Overview 3.0](#), section 1.2.1.

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 HILL'S Mark and the Disputed Domain Name. [WIPO Overview 3.0](#), section 1.7.

The entirety of the HILL'S Mark (without an apostrophe) is reproduced within the Disputed Domain Name. Accordingly, the Disputed Domain Name is confusingly similar to the HILL'S Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here "pet" and "care", 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 Disputed Domain Name and the HILL'S 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 allows three nonexclusive methods for the Panel to conclude that Respondent has rights or a legitimate interest in the Disputed Domain Name:

(i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Disputed Domain Name or a name corresponding to the Disputed Domain Name in connection with a bona fide offering of goods or services; or

(ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Disputed Domain Name, even if you have acquired no trademark or service mark rights; or

(iii) you [Respondent] are making a legitimate noncommercial or fair use of the Disputed Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the HILL'S Mark.

Although the overall burden of proof in UDRP proceedings is on Complainant, panels have recognized that proving Respondent lacks rights or legitimate interests in the Disputed Domain Name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of Respondent. As such, where 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 Disputed 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.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Disputed Domain Name. Respondent has not rebutted 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.

While UDRP panels have recognized limited rights for resellers or distributors to nominally use a trademark for its source-identifying function, such fair use is qualified under the so-called "Oki Data" test enshrined in

section 2.8.1 of the [WIPO Overview 3.0](#). Here, noting the lack of disclaimer on the website which the disputed domain name resolves to and lack of authorization by Complainant, the impersonating nature of the disputed domain name is reinforced and as such, Respondent's use of the Disputed Domain Name cannot qualify as fair use. Furthermore, the Panel finds that the composition of the Disputed Domain Name, adding to Complainant's HILL'S Mark the terms "pet" and "care" related to Complainant's business, coupled with the use of the Disputed Domain Name to resolve to a website offering Complainant's products and displaying its product images, affirms Respondent's intention of taking unfair advantage of the likelihood of confusion between the Disputed Domain Name and Complainant as to the origin or affiliation of the website at the Dispute Domain Name.

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.

Paragraph 4(b) of the Policy sets forth four non-exclusive criteria for Complainant to show bad faith registration and use of the Disputed Domain Name:

- (i) circumstances indicating that you [Respondent] have registered or you have acquired the Disputed Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Disputed Domain Name registration to Complainant who is the owner of the HILL'S Mark or to a competitor of Complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the Disputed Domain Name; or
- (ii) you [Respondent] have registered the Disputed Domain Name in order to prevent the owner of the HILL'S Mark from reflecting the HILL'S Mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or
- (iii) you [Respondent] have registered the Disputed Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, you [Respondent] have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the HILL'S Mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product on your website or location.

The Panel finds that Complainant has demonstrated the necessary element of paragraph 4(b)(iv) of the Policy.

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 Respondent's registration and use of the Disputed Domain Name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The Panel also finds (1) that Respondent knew or should have known of Complainant's rights in the HILL'S Mark at the time Respondent registered the Disputed Domain Name ([WIPO Overview 3.0](#), section 3.2.2) and (2) that there is no evidence that Respondent's use and registration of the Disputed Domain Name was in good faith.

Having reviewed the record, the Panel finds the Respondent's registration and use of the Disputed Domain Name constitutes bad faith under 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 <hillspetcare.com> be transferred to Complainant.

/Richard W. Page/

Richard W. Page

Sole Panelist

Date: March 24, 2025