

## ADMINISTRATIVE PANEL DECISION

FullBeauty Brands Operations, LLC v. Zeitz James  
Case No. D2025-0509

### 1. The Parties

The Complainant is FullBeauty Brands Operations, LLC, United States of America ("United States"), represented by Frost Brown Todd LLC, United States.

The Respondent is Zeitz James, United States.

### 2. The Domain Name and Registrar

The disputed domain name <womanwithinus.com> is registered with Gname.com Pte. Ltd. (the "Registrar").

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 7, 2025. On February 10, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 11, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 11, 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 13, 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 14, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 6, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Parties of the Respondent's default on March 7, 2025.

The Center appointed Ingrīda Kariņa-Bērziņa as the sole panelist in this matter on March 12, 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 a fashion and home-goods retailer for plus-size women and big and tall men. It operates numerous brands including WOMAN WITHIN, for which it has registered the following trademarks:

- United States Trademark Registration No. 1617731 for WOMAN WITHIN (word mark), registered on October 16, 1990, for goods and services in classes 25 and 42;
- United States Trademark Registration No. 3220573 for WOMAN WITHIN (word mark), registered on March 20, 2007, for services in class 35;
- United States Trademark Registration No. 3675933 for WOMAN WITHIN (stylized mark), registered on September 1, 2009, for services in class 35.

The Complainant operates an e-commerce website offering women's clothing and accessories at the domain name <womanwithin.com>.

The disputed domain name was registered on February 27, 2024. At the time of the Complaint and of this Decision, it resolved to an e-commerce website displaying the Complainant's WOMAN WITHIN device mark. The website features the same color scheme and similar layout as the Complainant's website, and purports to offer women's clothing and accessories for sale.

#### **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, founded in 1901, it has established itself as one of the world's best sources for plus-size goods. The WOMAN WITHIN brand is one of the Complainant's most recognized retail fashion brands for over 30 years. Through its website, the Complainant has offered clothing for plus-sized women since 2006. The disputed domain name incorporates the Complainant's mark in its entirety, and the addition of "us," which will be perceived as an abbreviation for the United States, does not obviate confusion. The Respondent is not in any way affiliated with the Complainant and is using the disputed domain name for a counterfeit website, which features the same color schemes and stylization, the Complainant's copyrighted photographs, and offers for sale the same goods offered by the Complainant.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

Paragraph 4(a) of the UDRP requires the Complainant to make out all three of the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

#### **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 disputed 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 Complainant’s WOMAN WITHIN mark is reproduced within the disputed domain name. Accordingly, the disputed 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 (here, “us”) may bear on assessment of the second and third elements, the Panel finds the addition of such a term does not prevent a finding of confusing similarity between the disputed 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.

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.

There is no evidence that the Respondent is commonly known by the disputed domain name, nor that there are any circumstances or activities that would establish the Respondent’s rights therein. The disputed domain name consists of the Complainant’s WOMAN WITHIN mark (and as such is similar to the Complainant’s own domain name <womanwithin.com>), adding “us,” referring to the Complainant’s place of business in the United States. The Panel finds that such composition indicates targeting of the Complainant.

Panels have held that the use of a domain name for illegitimate activity (here, claimed impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

In the present case, the Panel notes that the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark. The Complainant's rights in its WOMAN WITHIN mark predate by at least 30 years the registration of the disputed domain name. The disputed domain name reflects the Complainant's WOMAN WITHIN trademark with the abbreviation "us" for the United States. Together with the use to which the disputed domain name has been put, the Panel find that these circumstances clearly imply a link with the Complainant's business.

Panels have held that the use of a domain name for illegitimate activity (here, claimed impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. The disputed domain name resolves to a website substantially copying the Complainant's website in colors, layout, type of products offered and featuring the Complainant's WOMAN WITHIN device mark.

In light of the finding that the Respondent has no rights in the disputed domain name, having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names 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 <womanwithinus.com> be transferred to the Complainant.

*/Ingrīda Kariņa-Bērziņa /*

**Ingrīda Kariņa-Bērziņa**

Sole Panelist

Date: March 25, 2025