

## **ADMINISTRATIVE PANEL DECISION**

NSN Apparel Co, LLC v. Tito Laholla, Tito Lmt  
Case No. D2025-0535

### **1. The Parties**

The Complainant is NSN Apparel Co, LLC, United States of America ("United States"), represented by Adelman Matz P.C., United States.

The Respondent is Tito Laholla, Tito Lmt, Peru.

### **2. The Domain Name and Registrar**

The disputed domain name <drewmerchstore.com> is registered with Realtime Register B.V. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 11, 2025. On February 11, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 12, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 12, 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 amendment to the Complaint on February 13, 2025.

The Center verified that the Complaint together with the amendment to the 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 Respondent's default on March 7, 2025.

The Center appointed Mario Soerensen Garcia 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 NSN Apparel Co, LLC, a limited liability company based in the United States. For several years prior to the registration of the disputed domain name, the Complainant offered clothing and related goods under the marks DREW, LA MAISON DREW, and DREW HOUSE.

The Complainant owns trademarks consisting of DREW, LA MAISON DREW, and DREW HOUSE, including but not limited to Hong Kong, China Registrations No. 305552587 (registered on March 5, 2021) for DREW as a stylized mark; Registration No. 305552613 (registered on March 5, 2021) for DREW as a design mark; and United States Registration No. 6563146 (registered on November 16, 2021) for LA MAISON DREW (translated as “The House of Drew”). (Annexes 7-41 of the Complaint)

The Complainant also owns the domain name <thehouseofdrew.com>, registered on February 20, 2018.

The Respondent is Tito Laholla, Tito Lmt, from Peru.

The disputed domain name was registered on December 13, 2023, and resolves to a page that resolves to a page impersonating the Complainant’s trademarks, displaying Justin Bieber’s image (one of the Complainant’s founders) and offering what appears to be counterfeit versions of DREW brand merchandise.

#### **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.

The Complainant argues that the disputed domain name is identical or confusingly similar to the trademark DREW.

There is no evidence that the Respondent has made demonstrable preparations to use the disputed domain name for legitimate purposes, nor is there any evidence that the Respondent is using the disputed domain name in connection with any noncommercial or fair use. The Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

That being the case, the Complainant finds that the disputed domain name is likely to make Internet users assume that the website that is linked to the disputed domain name offers clothing articles and akin goods supplied by the Complainant.

According to the Complainant, it has prior rights over the trademark DREW and has not authorized the Respondent’s registration and use of the disputed domain name.

The Complainant’s intellectual property rights for DREW trademarks and domain name predate the registration of the disputed domain name.

According to the Complainant, the registration and use of the disputed domain name has been conducted in bad faith.

The Complainant requests the transfer of the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to the 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 has been registered and is used in bad faith.

### **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 DREW 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.

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.

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

The nature of the disputed domain name carries a risk of implied affiliation as it effectively impersonated the Complainant.

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 finds that the Respondent was clearly aware of DREW trademark as the disputed domain name displayed the Complainant's DREW trademarks and emulated the Complainant's site, creating a likelihood of confusion with the Complainant's mark.

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.

Panels have held that the use of a domain name for illegal activity, here, claimed as impersonation/passing off and sale of counterfeit goods, or other types of fraud, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. 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 <drewmerchstore.com> be transferred to the Complainant.

*/Mario Soerensen Garcia/*

**Mario Soerensen Garcia**

Sole Panelist

Date: March 26, 2025