

ADMINISTRATIVE PANEL DECISION

FullBeauty Brands Operations, LLC v. gao fei, huasheng
Case No. D2025-0551

1. The Parties

The Complainant is FullBeauty Brands Operations, LLC, United States of America (“USA” or “US”), represented by Frost Brown Todd LLP, USA.

The Respondent is gao fei, huasheng, China.

2. The Domain Name and Registrar

The disputed domain name <womanwithinde.com> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 11, 2025. On February 12, 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 18, 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 20, 2025. The Respondent sent email communications to the Center on February 21, 2025. The Center sent the Possible Settlement email to the Parties on the same day. The Complainant requested suspension by email on March 4, 2025, and the proceedings were suspended until April 3, 2025. Since the Parties could not reach a settlement, the proceedings were reinstituted on April 9, 2025, as per the Complainant’s request.

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 April 11, 2025. In accordance with the Rules, paragraph 5, the due date for Response was May 1, 2025. The Respondent did not submit any formal Response.

The Center appointed Clive Duncan Thorne as the sole panelist in this matter on May 14, 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, founded in 1901, is a limited liability company registered under the laws of Indiana, USA. Its principal place of business is in Indianapolis, Indiana. It is a fashion and home goods retailer for plus-size women and big and tall men. It has established itself, after over 100 years of trading in the fashion industry, as one of the world's leading sources for plus-size goods.

It markets a diverse array of high-quality products under various retail brands offered for sale on their respective websites including: AVENUE, BRYLANE HOME, CATHERINES, ELLOS, ELOQUII, JESSICA LONDON, JUNE+VIE, KINGSIZE, ROAMAN'S, and WOMAN WITHIN.

The trade mark WOMAN WITHIN is one of the Complainant's most recognized retail fashion brands having been used continuously and exclusively for over 30 years since as early as 1990 in the fashion industry. The brand has a reputation as being used for providing comprehensive clothing options for plus-size women including for tops, bottoms, intimates, sleepwear, swim wear and outerwear. Currently such items are offered via the WOMAN WITHIN retail website at <womanwithin.com> and mail order catalogue. Sales have been made using the website since at least 2006. Printouts from the website and mail order catalogue are exhibited at Annex C to the Complaint.

The Complainant owns trade mark registrations for the mark WOMAN WITHIN in the USA and in the European Union ("EU") including as follows:

US registration 1617731 dated October 16, 1990 in classes 25 and 42.

US registration 3220573 dated March 20, 2007 in class 35.

EU registration 010254589 dated February 10, 2012 in classes 16, 18 and 35.

EU registration 1073894 dated February 18, 2011 in classes 25 and 35.

Copies of printouts of these registrations are exhibited at Annexes D and E to the Complaint. The Panel notes that the disputed domain name was registered on November 27, 2024 which is after the date of the trade mark registrations relied upon.

The Respondent is an individual, Gao Fei, with an address in Shenzhen, Guangdong Province, China. Having taken steps to investigate the specific address given for the Respondent, the Complainant found that it did not correspond to an actual location and was probably false. This is evidenced by the map exhibited as Annex H.

The website used by the Respondent appears to be counterfeit representing a website of the Complainant. The website uses the same stylization that the Complainant uses for offering for sale its goods under the mark WOMAN WITHIN and its own website. It also reproduces the appearance of the Complainant's website using the same colour schemes and stylization, photographs and offers the same type of goods offered on the Complainant's website. A printout of the Respondent's website is exhibited as Annex F. The similarities can be seen by a comparison of Annex F with Annex C.

In the absence of a formal Response the Panel finds the evidence adduced by the Complainant to be true.

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:

- i. The disputed domain name is confusingly similar to the Complainant's mark WOMAN WITHIN;
- ii. On the evidence the Respondent has no rights and cannot show any rights or legitimate interests in the disputed domain name;
- iii. On the evidence and in particular a comparison of the Complainant's and the Respondent's trading websites the disputed domain name was registered and is being used by the Respondent in bad faith.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions, but only "deeply apologize[d] for this domain name infringement incident" in its email communication.

6. Discussion and Findings

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 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, the letters "de", may bear on assessment of the second and third elements, the Panel finds the addition of such 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.

Panels have held that the use of a domain name for illegal activity here, claimed as applicable to this case: impersonation/passing off, of the Complainant's products 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 registered and used the disputed domain name for access to its website which has similar features to that of the Complainant and offers for sale similar clothing products to those that are sold by the Complainant. In the Panel's view the Respondent's website is intended to cause user confusion with that of the Complainant. This is evidence of an intentional attempt to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark under paragraph 4(b) of the Policy.

The Panel also takes into account the evidence as demonstrated by Annex H that the address given by the Respondent is "likely false" in that it does not correspond to an actual location and is not associated with any business operating under the disputed domain name.

Panels have held that the use of a domain name for illegal activity here, claimed as applicable to this case, impersonation/passing off, 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 <womanwithinde.com> be transferred to the Complainant

/Clive Duncan Thorne/

Clive Duncan Thorne

Sole Panelist

Date: May 28, 2025.