

ADMINISTRATIVE PANEL DECISION

Rothy's, Inc. v. ovgp hug
Case No. D2025-0814

1. The Parties

Complainant is Rothy's, Inc., United States of America (the "USA"), represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, the USA.

Respondent is ovgp hug, China.

2. The Domain Name and Registrar

The disputed domain name <rothysofficial.shop> is registered with West263 International Limited (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on February 27, 2025. On February 27, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 3, 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 (Registration Private) and contact information in the Complaint. The Center sent an email communication to Complainant on March 3, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint in English on March 3, 2025.

On March 3, 2025, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On March 3, 2025, Complainant requested English to be the language of the proceeding. Respondent did not submit any comment on Complainant's submission.

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 Respondent in English and Chinese of the Complaint, and the proceedings commenced on March 4, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 24, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on March 25, 2025.

The Center appointed Yijun Tian as the sole panelist in this matter on April 3, 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

A. Complainant

Complainant, Rothy's, Inc., is a company incorporated in the USA. Founded in 2012, Complainant is a direct-to-consumer fashion company. It began with women's footwear and has since expanded to include handbags and a men's line. Complainant operates 27 retail stores across the USA and in London, United Kingdom ("UK"). Fast Company named Complainant one of "the world's most innovative companies" in 2020, reporting over 1.4 million customers in 2019 (Annex 4 to the Complaint).

Complainant has rights in the ROTHY'S and ROTHY'S-related marks. Complainant is the owner of numerous ROTHY'S trademarks worldwide, including the UK trademark registered on October 14, 2015 (the UK Trademark registration number UK00914267405), the European Union ("EU") trademark registered on October 4, 2019 (the EU Trademark registration number 018065985), and the USA trademark registered on June 13, 2023 (the USA Trademark registration number 7080939) (Annex 11 to the Complaint).

Complainant also owns the disputed domain name <rothys.com> (registered August 28, 2012), which hosts its official website (Annexes 6–7 to the Complaint). In 2024, Complainant launched an official Amazon storefront (Annex 8 to the Complaint).

B. Respondent

Respondent is reportedly located in China.

The disputed domain name was registered on February 13, 2025. According to the Complaint and the evidence provided by Complainant, the disputed domain name was previously resolved to a website displaying "Waffle Sweatshirts", and purporting to offer apparel products for sale.

5. Parties' Contentions

A. Complainant

Complainant contends that the disputed domain name is confusingly similar to Complainant's ROTHY'S trademark. The disputed domain name incorporates the ROTHY'S trademark in its entirety, merely omitting the apostrophe and adding the word "official" as the suffix. These minor changes do not provide adequate distinction to negate the conclusion that the disputed domain name is confusingly similar to the trademark ROTHY'S.

Complainant contends that Respondent lacks rights or legitimate interests in the disputed domain name.

Complainant contends that the disputed domain name was registered and is being used in bad faith.

Complainant requests that the disputed domain name be transferred to it.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

The language of the Registration Agreements for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

From the evidence presented on the record, no agreement appears to have been entered into between Complainant and Respondent to the effect that the language of the proceeding should be English. Complainant filed initially its Complaint and the amendment to the Complaint in English, and has requested that English be the language of the proceeding for the following main reasons:

- (a) The disputed domain name includes English words—specifically, “official” and the generic Top-Level Domain (“gTLD”) term “.shop”.
- (b) The content of the website associated with the disputed domain name is entirely in English. Examples include “Waffle Sweatshirts,” “Winter Featured Bestsellers,” “Men’s Solid Color Drawstring Hooded,” and “Subscribe to our email list” (Annex 9 of the Complaint).
- (c) Requiring Complainant to translate the Complaint into another language would result in undue burden, increased cost, and unnecessary delay—contrary to the objectives of the UDRP.

Respondent did not make any submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the Parties’ ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 4.5.1).

On the record, Respondent appears to be located in China and thus presumably not a native English speaker, but considering the following aspects, the Panel has decided that the language of the proceeding shall be English: (a) the disputed domain name is registered in Latin characters, particularly English words (e.g., “official”), rather than Chinese script; (b) the gTLD of the disputed domain name is “.shop”, so the disputed domains name seems to be prepared for users worldwide, particularly English speaking countries; (c) the disputed domain name resolved to a webpage entirely in English (see Annex 9 to the Complaint); (d) Center has notified Respondent of the language of the proceeding in both Chinese and English, and Respondent has indicated no objection to Complainant’s request that English be the language of the proceeding; (e) the Center also notified Respondent in both Chinese and English of the Complaint, and informed Respondent that it would accept a response in either English or Chinese, but Respondent chose not to file any response.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2 Substantive Issues: Three Elements

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 Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds 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 Panel finds Complainant's ROTHY'S mark is recognizable 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.

While merely omitting the apostrophe and adding the word "official" as the suffix may bear on the assessment of the second and third elements, the Panel finds the addition of such characters 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.

Based on the available record, 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 Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While 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 often impossible 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. 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 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.

More specifically:

(i) there has been no evidence adduced to show that Respondent has used the disputed domain name in connection with a bona fide offering of goods or services. Respondent has not provided evidence or reasons to justify the choice of the term "rothys", Complainant's ROTHY'S trademark (merely omitting the apostrophe) in the disputed domain name. There has been no evidence to show that Complainant has licensed or otherwise permitted Respondent to use the ROTHY'S trademark or to apply for or use any domain name incorporating the ROTHY'S marks;

(ii) there has been no evidence adduced to show that Respondent has been commonly known by the disputed domain name. There has been no evidence adduced to show that Respondent has any registered trademark rights with respect to the disputed domain name. Respondent registered the disputed domain name on February 13, 2025, after the ROTHY'S mark was registered in the UK (since 2015). The disputed

domain name is confusingly similar to Complainant's ROTHY'S marks, and composition of the disputed domain name which carries a risk of implied affiliation with Complainant; and

(iii) there has been no evidence adduced to show that Respondent was making a legitimate noncommercial or fair use of the disputed domain name. By contrast, the disputed domain name previously resolved to a website offering apparel products for sale. The Panel notes that the products on the Respondent's website do not appear to have any connection with Complainant. Therefore, Respondent has attempted to make profits through the Internet traffic attracted to the website under the disputed domain name incorporating Complainant's trademark.

Based on the available record, 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 Respondent has registered and used the disputed domain name 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.

Based on the information provided by Complainant, the Panel finds that Complainant has a reputation in the ROTHY'S marks with regard to its products and services. It is not conceivable that Respondent would not have had Complainant's trademark in mind at the time of the registration of the disputed domain name (in February 2025). This has been reinforced by the fact that the disputed domain name incorporates Complainant's ROTHY'S trademark entirely (merely omitting the apostrophe).

Respondent has used the website to offer unrelated apparel products for sale. Accordingly, the Panel concludes that Respondent is using a confusingly similar disputed domain name with the intention to attract, for commercial gain, Internet users to Respondent's website by creating a likelihood of confusion with Complainant. Such use constitutes bad faith pursuant to paragraph 4(b)(iv) of the Policy.

Based on the available record, the Panel finds the third element of the Policy has been established.

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 <rothysofficial.shop> be transferred to Complainant.

/Yijun Tian/

Yijun Tian

Sole Panelist

Date: April 9, 2025