

## **ADMINISTRATIVE PANEL DECISION**

### **Reginaldo Alvarez Torres v. Dabalash Beauty Case No. D2025-0878**

#### **1. The Parties**

The Complainant is Reginaldo Alvarez Torres, United States of America (“U.S.” or “United States”), represented by Whitley Legal Group, P.C., U.S.

The Respondent is Dabalash Beauty, Mexico.

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

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

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 4, 2025. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. Also on March 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 (Domains by Proxy, LLC) and contact information in the Complaint.

The Center sent an email communication to the Complainant on March 5, 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 March 5 and March 7, 2025.

The Center verified that the Complaint together with the amended Complaints 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 March 17, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 6, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 10, 2025.

The Center appointed David Stone as the sole panelist in this matter on April 22, 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 the founder of R&G Business, LLC, a company formed in April 2008 to manufacture and sell cosmetic products.

The Complainant owns the following registered trade marks (the "Marks"):


- DABALASH, U.S. trade mark registration no. 3861669, registered on October 12, 2010, in international class 3;



- , U.S. trade mark registration no. 6414467, registered on July 13, 2021, in international class 35;

- DABALASH, Mexico trade mark registration no. 1099789, registered on May 14, 2009, in international class 3; and



- , Mexico trade mark registration no. 1547318, registered on June 17, 2015, in international class 3.

The trademarks were licensed to R&G Business, LLC, which began selling eyeliner and cosmetic products under the DABALASH brand in the United States and Mexico in 2009.

The Complainant claims that sales of DABALASH cosmetics products continued to expand throughout Latin America, South America, and North America throughout the 2010s and 2020s, and that the Complainant continued to obtain trademark registrations throughout Latin America, South America and North America.

The Complainant, through R&G Business, LLC, has operated the website at the domain name <dabalash.com> since 2009, and has offered DABALASH eyeliner and cosmetics on that site since 2009.

The disputed domain name was registered on August 8, 2012. The Respondent is purportedly offering for sale "DABALASH-"branded cosmetic products via the website associated with the disputed domain name, but does not actually do so. According to the Complainant, if any DABALASH-branded products are sold through the disputed domain name, any such products are counterfeit and not authorized DABALASH products. The disputed domain name does not include any disclaimer of lack of association with the Complainant.

At the date of this decision, the website at the disputed domain name is: i) using the Marks prominently and numerous; ii) using a similar colour scheme to the Complainant's official website "www.dabalash.com"; and iii) purporting to sell DABALASH-branded cosmetic products.

#### 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 contends that, under the first element, the Marks and the disputed domain name are confusingly similar with the Respondent only having “beauty” added to the end of the Marks which is descriptive of beauty products.

Under the second element, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, as the Respondent was not in the business of selling any products named Dabalash at the time the disputed domain name was registered, nor was the Respondent: i) associated with the Complainant, or ii) a distributor of DABALASH products. The Complainant further contends that at present the disputed domain name is being used to host a website that claims to offer genuine DABALASH products, but does not actually do so. The site displays copies of both the DABALASH word mark as well as the DABALASH design mark. The Complainant has received numerous complaints from its customers stating that they ordered DABALASH products from the site but did not receive any products at all. Finally, the Complainant claims that, if any DABALASH-branded products are sold through the site, they are counterfeit and not authorized DABALASH products.

Under the third element, the Complainant contends that the disputed domain name has been registered and is being used in bad faith. The Complainant contends that, when the disputed domain name was registered by the Respondent, the Complainant and its company R&G Business, LLC were already successful, and that the Respondent created a website at the disputed domain name that used the Marks of the Complainant to attract viewers but not actually offer any products and/or to offer counterfeit products. At present, the trademarks and products advertised for sale on the Respondent’s website are identical to those on the Complainant’s website located at the domain name <dabalash.com>. The Complainant contends that the Respondent registered the disputed domain name primarily for the purpose of disrupting the Complainant’s business or to attract, for commercial gain, Internet users to the Respondent’s website by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website or location or of a product on the Respondent’s website.

## **B. Respondent**

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

## **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 Marks 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 trademark DABALASH is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of the term “beauty” may bear on the 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 Marks 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. Further, the website to which the disputed domain name resolves does not fall under the safeguards of fair use envisioned under section 2.8 of the [WIPO Overview 3.0](#), considering the lack of disclaimer on the website as to its lack of association with the Complainant. To the contrary, on the basis of the screenshots provided by the Complainant, the website displays the Marks prominently and numerous, and purportedly offers for sale DABALASH-branded products bearing the Marks.

Further, panels have held that the use of a domain name for illegal 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 created a website at the disputed domain name which (i) displays the Marks prominently and numerous; (ii) purportedly offers for sale DABALASH-branded cosmetics products; (iii) displays numerous images of “DABALASH”-branded products, and (iv) uses a similar colour scheme to the Complainant’s official website, without any disclaimer of lack of association with the Complainant.

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 found that evidence of a respondent seeking to cause confusion supports a finding that a respondent has registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant’s mark. [WIPO Overview 3.0](#), section 3.1.4.

The Panel finds that the content of the website at the disputed domain name is suggestive of bad faith because it is evidence of the Respondent seeking to cause confusion. The nature of the Respondent’s website and its purporting to sell DABALASH-branded products shows an intention of the Respondent to confuse and thereby attract Internet users to its website for commercial gain.

Further, Panels have held that the use of a domain name for illegal activity, here, claimed impersonation/passing off, or other types of fraud, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. The Panel also notes that the Complainant asserts that it has received complaints from its customers who ordered products from the Respondent's website but not received anything.

Furthermore, the Respondent has not attempted to refute any of the Complainant's contentions, which casts additional doubt on the nature of its conduct. [WIPO Overview 3.0](#), section 3.2.1.

Having reviewed the record, the Panel concludes that the actions of the Respondent in choosing the disputed domain name were aimed at attracting, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's Marks. The Panel therefore concludes that the disputed domain name was registered and is being used in bad faith.

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 <dabalashbeauty.com> be transferred to the Complainant.

*/David Stone/*

**David Stone**

Sole Panelist

Date: May 6, 2025