

ADMINISTRATIVE PANEL DECISION

Serena & Lily, Inc. v. Clark Smith
Case No. D2025-0895

1. The Parties

The Complainant is Serena & Lily, Inc., United States of America (“United States or U.S.”), represented by RegitzMauck PLLC, United States.

The Respondent is Clark Smith, United States.

2. The Domain Name and Registrar

The Disputed Domain Name <serena-and-lily.cfd> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 4, 2025. On March 5, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On March 5, 2025, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 March 6, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 26, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 28, 2025.

The Center appointed Purvi Patel Albers as the sole panelist in this matter on April 1, 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 U.S. corporation that serves as a luxury home furnishings and interior design company. The Complainant sells a variety of products, including furniture, bedding, lighting, art, home décor accessories, and clothing. The Complainant operates an online retail store for its various offerings at the domain name <serenaandlily.com>.

The Complaint includes evidence of ownership of U.S. trademark registrations for SERENA & LILY, claiming use dating back to as early as 2004, including:

- U.S. Registration No. 4,382,336 for SERENA & LILY (registered August 13, 2013) for use in connection with “robes”;
- U.S. Registration No. 4,363,514 for SERENA & LILY (registered July 9, 2013) for use in connection with, inter alia, “candles”; and
- U.S. Registration No. 3,241,729 for SERENA & LILY (registered May 15, 2007) for use in connection with “fabric, linens, and textiles for children’s rooms, namely, bumpers, sheets, bed skirts, matching cotton fabrics for furniture, pillows, and duvets”.

The Disputed Domain Name was created on February 14, 2025. It resolves to a website directing consumers to sponsored links of competitors of the Complainant offering the same 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.

Notably, the Complainant contends that it has rights in the SERENA & LILY mark due in part to the registrations above. The Complainant further asserts that the Disputed Domain Name is confusingly similar to the SERENA & LILY mark.

The Complainant also contends that the Respondent has no rights or legitimate interests in the Disputed Domain Name. The Complainant asserts it has not authorized the Respondent to use or register the Disputed Domain Name. The Complainant further asserts that the Respondent is not using the Disputed Domain Name in connection with a bona fide offering of goods or services or in a legitimate non-commercial or fair manner because the Respondent is using the deceptively similar domain name to direct consumers to sponsored links of competitors of the Complainant.

Finally, the Complainant contends that the Disputed Domain Name was registered and is being used in bad faith because the Respondent is engaging in typosquatting to deceptively direct consumers to sponsored links of competitors selling similar products to the Complainant.

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, to succeed in this dispute, the Complainant must establish that:

- i. the Disputed Domain Name is identical or confusingly similar to a trademark 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 being 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 for purposes of the Policy through the trademark registrations cited above. Thus, the Complainant has provided prima facie evidence of trademark rights. [WIPO Overview 3.0](#), section 1.2.1.

Where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing. [WIPO Overview 3.0](#), section 1.7. Section 1.9 of the [WIPO Overview 3.0](#) makes clear that a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element.

The Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's SERENA & LILY trademarks. The mark is clearly recognizable within the Disputed Domain Name – differing only in that the Disputed Domain Name merely includes hyphens between the words and substitutes “and” for the “&” symbol, which is not available for use in a domain name. This conduct is commonly referred to as “typosquatting” and creates a virtually identical and/or confusingly similar domain name to the Complainant's trademark. See *ESPN, Inc. v. XC2*, WIPO Case No. [D2005-0444](#); *Longs Drug Stores California, Inc. v. Shep Dog*, WIPO Case No. [D2004-1069](#)). Ample authority exists to support the conclusion that “essential” or “virtual” identity is sufficient for the purposes of satisfying confusing similarity (See *Disney Enterprises, Inc. v. John Zuccarini, Cupcake City and Cupcake Patrol*, WIPO Case No. [D2001-0489](#) (disputed domain names include <disneychanel.com>, <disneyworld.com>, <walddisney.com>); *United Feature Syndicate, Inc. v. Mr. John Zuccarini*, WIPO Case No. [D2000-1449](#) (disputed domain name is <dillbert.com>)).

Further, UDRP Panel Decisions have held that “punctuation marks such as hyphens cannot on their own avoid a finding of confusing similarity”. See *Di El Industrie-Electronic GmbH and TR Electronic v. E-Orderdesk*, WIPO Case No. [D2007-0961](#) (“the use or absence of punctuation marks such as hyphens does not alter the fact that the domain name at issue is identical or confusingly similar to the trademark at issue”).

Finally, new generic Top-Level Domains (“gTLDs”), such as “.cfd”, are generally disregarded when assessing identity or confusing similarity under the first element. See [WIPO Overview 3.0](#), section 1.11.1; see also *Regal Entertainment Group, Regal Cinemas, Inc. v. Richard A. Block*, WIPO Case No. [D2024-0338](#).

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 Disputed Domain Name was registered 18 years after the Complainant received its first U.S. registration for the SERENA & LILY mark and more than 20 years after the Complainant began using the mark. The Complainant has not authorized the Respondent to use said mark or register a domain name incorporating it. There is also no evidence showing that the Respondent is, or has been, known as “serena-and-lily” or similar.

Furthermore, the Respondent has no legitimate interests in the Disputed Domain Name. The Disputed Domain Name consists of various sponsored links to competitor websites purportedly offering goods akin to those offered by the Complainant. UDRP panels have found that the use of a domain name to host a page comprising sponsored links (i.e., a certain type of pay-per-click links) does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users. [WIPO Overview 3.0](#), section 2.9. See, e.g., *Merck Sharp & Dohme Corp. v. Domain Administrator, PrivacyGuardian.org / George Ring, DN Capital Inc.*, WIPO Case No. [D2017-0302](#).

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.

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.

It is well-settled that the practice of typosquatting, of itself, is evidence of the bad faith registration of a domain name. See, *Longs Drug Stores Cal., Inc. v. Shep Dog*, WIPO Case No. [D2004-1069](#) (finding typosquatting to be evidence of bad faith domain name registration); *Lexar Media, Inc. v. Huang*, WIPO Case No. [D2004-1039](#) (“Typosquatting has been held under the Policy to be evidence of bad faith registration of a domain name.”); *Wal-Mart Stores, Inc. v. Longo*, WIPO Case No. [D2004-0816](#) (“[typosquatting] is presumptive of registration in bad faith”). In the present case, the Respondent has registered a domain name that is nearly identical to the Complainant’s trademark and URL. As discussed above, this is a form of typosquatting, which is evidence in itself of a bad faith registration.

Further, paragraph 4(b)(iv) of the Policy provides that the intentional use of a domain name to attract users to a website for commercial gain, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the website, establishes bad faith in the registration and use of the domain name. Here, the Respondent is diverting consumers looking for the Complainant’s products and services to the Disputed Domain Name, where sponsored links of the Complainant’s

competitors are featured selling the same products, and for which the Respondent most likely would receive some commercial gain. The Panel finds that the Respondent was most likely aware of the Complainant at the time of registration and is using the Domain Names to intentionally attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the SERENA & LILY trademarks as to the source, sponsorship, affiliation, or endorsement of the Respondent's websites.

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 <serena-and-lily.cfd> be transferred to the Complainant.

/Purvi Patel Albers/

Purvi Patel Albers

Sole Panelist

Date: April 15, 2025