

## **ADMINISTRATIVE PANEL DECISION**

Lulu & Georgia, Inc. v. asfa, sfa

Case No. D2025-1252

### **1. The Parties**

The Complainant is Lulu & Georgia, Inc., United States of America (“United States” or “US”), represented by Sheppard, Mullin, Richter & Hampton LLP, United States.

The Respondent is asfa, sfa, China.

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

The disputed domain name <luluandgeorgia.shop> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 26, 2025. On March 27, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 28, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 28, 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 April 7, 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 April 8, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 28, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 5, 2025.

The Center appointed Clive Duncan Thorne as the sole panelist in this matter on May 9, 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 an established interior design and home décor shopping site which has since at least 2012 offered exclusive and hand-selected styles and specially curated product lines under the mark LULU & GEORGIA. Screenshots from its website are exhibited at Annex 5 to the Complaint showing examples of the categories of products sold under the following categories; furniture, rugs, wallpaper and outdoor furniture. It also refers to a design service that is offered.

The Complainant exhibits at Annex 6 copies of third-party reviews of its designs and styles from major fashion publications throughout the world, including Vogue, Architectural Digest, Harpers Bazaar, Homes & Gardens, House Beautiful and others which review its products.

The Complainant also collaborates with select designers to offer exclusive and especially curated product lines and has produced co-branded products in collaboration with well-known artists and designers. Examples of articles covering collaborations with designers are exhibited at Annex 7.

The Complainant relies upon its US trade mark; LULU & GEORGIA, registration No. 5,407,349, registered on February 20, 2018 in Class 35 in respect of "On-line retail store services featuring a wide variety of consumer goods of others; On-line retail store services featuring housewares". The mark was first registered in the name of Sara Sugarman Brenner but assigned on March 4, 2025 to the Complainant. A copy of the certificate of registration and the assignment are exhibited at Annex 8 to the Complaint.

The Complainant also owns and trades using the domain name <luluandgeorgia.com> which offers LULU & GEORGIA branded products for purchase. This has been used since 2012. The use of the website accessed by the domain name can be seen from Annex 5.

The Complainant submits that as a result of the substantial sales of LULU & GEORGIA branded designs and the considerable promotion and press coverage of the brands, consumers have come to associate products sold and marketed under the trade mark as originating uniquely from the Complainant. The LULU & GEORGIA mark has acquired a high degree of public recognition and distinctiveness as a symbol of the source of high quality products and services offered by the Complainant, and which embody the valuable reputation and goodwill belonging to the Complainant.

The identity of the Respondent is not known. Searches were made by the Complainant of the Whois and ICANN databases. The Respondent's contact information is set out on its website accessed by using the disputed domain name a copy of which is exhibited at Annex 2. The Respondent's website prominently displays the mark LULU & GEORGIA and offers for sale home décor goods similar to those of the Complainant. Two examples are also set out in paragraph 9 of the Complaint.

The Complainant points out that the disputed domain name was registered on May 27, 2024 which is well after the date of registration of US trade mark 5,407,349.

In the absence of a 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 US registered trade mark LULU & GEORGIA which it owns and uses;
- ii. On the evidence of the Respondent's use of the disputed domain name the Complainant has shown that the Respondent has no rights or legitimate interests in the disputed domain name;
- iii. On the evidence of the Respondent's use of the disputed domain name and in particular the fact that it resolves to an infringing website offering for sale home décor goods using the Complainant's trade mark. The Complainant claims the Respondent is divert Internet traffic to a commercial website offering counterfeit Complainant's branded products at highly discounted prices. The Complainant establishes that the disputed domain name was registered and is being used in bad faith.

### **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 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 LULU & GEORGIA 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.

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.

The Panel has considered the Complainant's submissions that there is no evidence that the Respondent has previously used the disputed domain name in connection with a bona fide offering of goods or services, the Respondent has commonly been known by the disputed domain name or is making a legitimate, non-commercial or fair use of the disputed domain name. Having considered the evidence the Panel agrees with the Complainant's submissions.

Panels have held that the use of a domain name for illegal activity, here, claimed as applicable to this case: sale of counterfeit goods, impersonation/passing off, or other types of fraud evidenced by the Respondent's website as exhibited at Annex 2 to the Complaint, 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 finds that the Respondent registered the disputed domain name with knowledge of the Complainant's trade mark LULU & GEORGIA at a time when it was widely used by the Complainant for its design and home décor business, when it intended to participate in similar trading activity using the disputed domain name to enable access to its website also offering design and home décor products.

The Panel also finds on the evidence of the Respondent's website contained in Annex 2 that the Respondent is using, for its financial gain, the disputed domain name to divert online customers of the Complainant to its website in order to sell unauthorized and counterfeit products branded LULU & GEORGIA. This, in the Panel's view supports a finding within paragraph 4(b)(iv) of the Policy that the Respondent has "intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark."

Panels have held that the use of a domain name for illegal activity here, claimed as applicable to this case: sale of counterfeit goods, impersonation/passing off, 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 <luluandgeorgia.shop> be transferred to the Complainant.

*/Clive Duncan Thorne/*

**Clive Duncan Thorne**

Sole Panelist

Date: May 22, 2025