

ADMINISTRATIVE PANEL DECISION

Rack Room Shoes of Virginia, LLC v. lin hai
Case No. D2025-3214

1. The Parties

The Complainant is Rack Room Shoes of Virginia, LLC, United States of America ("United States"), represented by Fox Rothschild LLP, United States.

The Respondent is lin hai, China.

2. The Domain Name and Registrar

The disputed domain name <theoffbroadway.com> is registered with Dynadot Inc (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on August 11, 2025. On August 12, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 13, 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 ("Super Privacy Service LTD c/o Dynadot") and contact information in the Complaint. The Center sent an email communication to the Complainant on August 13, 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 the same date.

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 August 18, 2025. In accordance with the Rules, paragraph 5, the due date for Response was September 7, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 9, 2025.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on September 12, 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 online and brick-and-mortar footwear retailer that, for over 30 years, has offered an extensive variety of on-trend footwear styles for women, men, and children in athletic, comfort, and dress categories. The Complainant provides its services throughout the United States.

The Complainant owns multiple trademark registrations in the United States for the OFF BROADWAY marks, including but not limited to:

- Reg. No. 4,836,919 – OFF BROADWAY – registered on October 20, 2015, for services in Class 35;
- Reg. No. 3,705,278 – OFF BROADWAY SHOES – registered on November 3, 2009, for services in Class 35.

The Complainant claims, uncontested, that it has used the OFF BROADWAY marks in commerce for at least 25 years.

The disputed domain name was registered on May 29, 2024. The Complainant has provided evidence showing that at the time of filing of the Complaint, the disputed domain name resolved to a website titled “Off Broadway® Shoe Warehouse Official Website”, prominently displaying the OFF BROADWAY mark and advertising the Complainant’s products. The website also displayed a history of the origination of the Complainant’s brand, which, according to the Complainant, was false, and indicated that it was part of the Amazon affiliate advertising programme. At the time of this Decision, the disputed domain name still resolves to the same website.

On July 21, 2025, the Complainant sent a cease-and-desist letter to the physical and email addresses listed on the Respondent’s website. The letter was returned to sender by the United States Postal Service, indicating that the listed address is not genuine. Likewise, the email address published on the Respondent’s website proved to be false, as the Complainant’s email communication was returned as undeliverable.

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:

- (1) the disputed domain name is identical to the Complainant’s OFF BROADWAY marks for which the Complainant owns several trademark registrations and has been using continuously and exclusively for at least 25 years prior to the Respondent’s registration of the disputed domain name. The only differences are the omission of the spaces between the words and the addition of the definite article “the”, which does not prevent a finding of confusing similarity;
- (2) the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has not licensed or otherwise authorized the Respondent to use the OFF BROADWAY name or marks. The Respondent is not commonly known by the disputed domain name and is not making a bona

fide offering of goods or services or any legitimate noncommercial or fair use. Instead, the Respondent is impersonating the Complainant, using the Complainant's OFF BROADWAY logo, and displaying a false narrative of the brand's origins on the website to mislead consumers into believing the site is operated or endorsed by the Complainant. The Respondent's use of the disputed domain name is solely to drive web traffic for pay-per-click ("PPC") and pop-up advertising, which is not a legitimate interest under the Policy;

(3) the Respondent registered and is using the disputed domain name in bad faith. Registration of a domain name that is identical to the Complainant's well-known OFF BROADWAY marks, without authorization, and in a manner clearly intended to impersonate the Complainant, demonstrates bad faith. The Respondent is intentionally attempting to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation, or endorsement of the website and the PPC links displayed therein. The prominent display of the Complainant's logo and the fabricated "About" page further evidences the Respondent's intent to mislead and deceive consumers and to trade on the Complainant's goodwill.

Based on the above grounds, the Complainant requests that the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

To succeed in a UDRP complaint, the Complainant has to demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, namely:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark 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.

The Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the Complaint, the Panel's decision shall be based upon the Complaint.

However, even if the Respondent has not replied to the Complainant's contentions, the Complainant still bears the burden of proving that all these requirements are fulfilled. Concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3.

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistently with the consensus views captured therein.

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 mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the evidence submitted by the Complainant, the Panel finds that the Complainant has shown rights in respect of its OFF BROADWAY and OFF BROADWAY SHOES mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the Complainant's mark is recognizable within the disputed domain name. The disputed domain name incorporates the Complainant's OFF BROADWAY mark in its entirety, with the only differences being the deletion of spaces between the words and the addition of the definite article "the." These differences do not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8.

Similarly, as regards the OFF BROADWAY SHOES mark, the disputed domain name incorporates the dominant element "OFF BROADWAY", with the differences being the removal of the spaces and the term "shoes" and the addition of "the". Such minor differences likewise do not prevent a finding of confusing similarity.

The Panel further notes that the generic Top-Level Domain ("gTLD") ".com" is required only for technical reasons and is generally ignored for the purposes of comparison of the Complainant's mark to the disputed domain name. [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the Panel concludes that the disputed domain name is confusingly similar to the Complainant's marks and that the first element of paragraph 4(a) of the Policy is satisfied.

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. See [WIPO Overview 3.0](#), section 2.1.

In this case, the Complainant has established trademark rights in the OFF BROADWAY and OFF BROADWAY SHOES mark and has credibly asserted that it has not authorized, licensed, or otherwise permitted the Respondent to use these marks in any manner. Based on the available record, there is no evidence that the Respondent has been commonly known by the disputed domain name or that it holds any trademark rights in "theoffbroadway" or similar designations.

The evidence on record shows that the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services or making a legitimate noncommercial or fair use. Rather, the Respondent is impersonating the Complainant by reproducing the Complainant's OFF BROADWAY logo and business description on the website, while indicating that it is an "official website", displaying shoe images copied from the Complainant's own website, and fabricating a false narrative of the brand's history. Some products on the Respondent's website either cannot be purchased at all or redirect users to third-party sites, including "www.amazon.com", in a manner likely designed to generate affiliate revenue.

Moreover, the disputed domain name contains advertising links to third-party websites.

The Respondent's conduct also raises concerns of malicious intent, including phishing. The website invites users to submit their email addresses under the promise of receiving "special perks" and discounts, thereby collecting personal data from unsuspecting users. The Respondent has also provided a false mailing

address and email address in its contact information on the website, as evidenced by returned mail and undeliverable email notices, which further supports a finding of lack of rights or legitimate interests.

The Respondent has not submitted a Response and has failed to rebut the Complainant's prima facie case. In light of the foregoing, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the Complainant has satisfied the requirement of paragraph 4(a)(ii) of the Policy.

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.

The Complainant has demonstrated that it owns well-established rights in the OFF BROADWAY marks, which it has used extensively at least since 2008. The disputed domain name incorporates the Complainant's mark in its entirety, and the record indicates that the Respondent was aware of the Complainant and its trademark rights at the time of registration. The Panel finds that the Respondent registered the disputed domain name with the intent to impersonate the Complainant and trade off the reputation and goodwill of the OFF BROADWAY marks.

The Respondent's use of the disputed domain name to display the Complainant's mark, reproduce its brand description on an "About" page, and present its website as an "official" site of the Complainant further evidences an attempt to mislead Internet users into believing the website is operated or endorsed by the Complainant.

As earlier mentioned, the Respondent's website contains advertising links, which likely generate revenue by exploiting confusion with the Complainant's mark. Such use constitutes bad faith under paragraph 4(b)(iv) of the Policy as it demonstrates an intentional attempt to attract, for commercial gain, Internet users by creating a likelihood of confusion as to source, sponsorship, affiliation, or endorsement.

Further aggravating the bad-faith finding, the Respondent provided false contact information on its website, including a fake mailing address and non-functional email address, as evidenced by returned mail and undeliverable email notices provided by the Complainant. This behavior supports an inference of fraudulent intent and lack of good-faith registration.

In the absence of any response from the Respondent, and taking into account all of the above factors, the Panel concludes that the Respondent registered and is using the disputed domain name in bad faith within the meaning of paragraph 4(a)(iii) and paragraph 4(b)(iv) of the Policy.

Accordingly, the third element of paragraph 4(a) 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 <theoffbroadway.com> be transferred to the Complainant.

/Ganna Prokhorova/

Ganna Prokhorova

Sole Panelist

Date: September 26, 2025