

## **ADMINISTRATIVE PANEL DECISION**

Briarpatch, LLC v. Kylianne Taschereau

Case No. D2025-3636

### **1. The Parties**

The Complainant is Briarpatch, LLC, United States of America (“U.S.”), represented by Akerman LLP, U.S.

The Respondent is Kylianne Taschereau, U.S.

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

The disputed domain name <ethelcainofficial.shop> (“Disputed Domain Name”) is registered with Dynadot Inc (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 9, 2025. On September 9, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On September 11, 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 (Redacted for Privacy, Super Privacy Service LTD) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 11, 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 September 16, 2025.

The Center verified that the Complaint together with the amended 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 September 17, 2025. In accordance with the Rules, paragraph 5, the due date for Response was October 7, 2025. The Center received an email communication from a purported third party on September 22, 2025. The Center commenced the panel appointment process on October 10, 2025.

The Center appointed Purvi Patel Albers as the sole panelist in this matter on October 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 corporate entity of the performer known as Ethel Cain, an American singer-songwriter, record producer, and model. The Complainant sells a variety of merchandise including t-shirts, hoodies, hats, and posters and operates an online retail store for its various offerings at the domain name <ethelcain.myshopify.com>.

The Complainant includes evidence of ownership of the U.S. trademark registration No. 7441552 for ETHEL CAIN for, inter alia, “clothing, namely, tops as clothing, bottoms as clothing, shirts, tank tops and hooded sweatshirts,” which was registered on July 9, 2024, and claims use dating back to December 1, 2019.

The Disputed Domain Name was created on August 18, 2025. The Complainant includes evidence that the mobile version resolved to a website prominently featuring the ETHEL CAIN mark, including in a similar stylization to the mark on the Complainant’s website, imitated the Complainant’s actual website, and was purportedly selling ETHEL CAIN branded products at discounted prices. The Complainant also includes evidence that the desktop browser version of the website does not make any reference to Ethel Cain other than in the Disputed Domain Name.

#### **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 ETHEL CAIN mark due in part to the registration above. The Complainant further asserts that the Disputed Domain Name is confusingly similar to the ETHEL CAIN mark because it incorporates the mark in its entirety and merely includes the term “official” and the Top-Level Domain “.shop.”

The Complainant also contends that the Respondent has no rights or legitimate interests in the Disputed Domain Name. The Complainant asserts that there has never been any relationship with the Respondent that would give rise to any license, sponsorship, permission, or authorization for the Respondent to use or register the Disputed Domain Name, and there is no evidence that the Respondent is commonly known by the name Ethel or Cain. 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 noncommercial or fair manner because the Respondent is using the deceptively similar domain name to divert Internet traffic to a commercial website offering ETHEL CAIN branded counterfeit goods.

Finally, the Complainant contends that the Disputed Domain Name was registered in bad faith because, among other things, the Respondent is intentionally attempting to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s trademark as to the source, sponsorship, affiliation, or endorsement of the Disputed Domain Name, and the Disputed Domain Name was used in bad faith by selling unauthorized and counterfeit ETHEL CAIN branded products.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions. However, the Center received a third party's communication by email on September 22, 2025, in which this third party claimed unauthorized use of its contact details in relation to the Disputed Domain Name after receiving a mailed notice of the Complaint.

## **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 or service mark for the purposes of the Policy through the trademark registration cited above. Thus, the complainant has provided prima facie evidence of trademark rights. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's ETHEL CAIN trademark. 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. Here, the entirety of the ETHEL CAIN mark is reproduced within the Disputed Domain Name. The Disputed Domain Name merely adds the term "official" at the end of the Complainant's mark and uses the Top-Level Domain ".shop."

Although the addition of other terms, namely, "official," may bear on 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 ETHEL CAIN mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8. ("Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element").

It is also well accepted that a Top-Level Domain, in this case ".shop," is typically ignored when assessing the similarity between a trademark and a domain name. [WIPO Overview 3.0](#), section 1.11.1.

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 Complainant has not authorized or licensed the Respondent to use said mark or register a domain name incorporating it, and there is no evidence showing that the Respondent is, or has been, known as “ethelcainofficial” or similar.

There is also no evidence that the Respondent is using the Disputed Domain Name for a bona fide offering of goods or services. Instead, the unrebutted evidence in the case indicates that the Disputed Domain Name, on the mobile version of the website, prominently displayed the Complainant's mark, including in the Complainant's stylized font, and was offering ETHEL CAIN branded products at discounted prices. The Respondent has not come forward with any evidence to support a finding that it is acting as an unauthorized reseller of the Complainant's products. Rather, the evidence on record tends to suggest that the Respondent has been illegitimately holding itself out as the Complainant. Further, past panels have held that goods sold well below market value can form circumstantial evidence which supports a complainant's claim of counterfeit goods. [WIPO Overview 3.0](#), section 2.13.2; see, e.g., *Olaplex, Inc. v. 丁超 (Ding Chao)*, WIPO Case No. [D2023-4059](#); *Gallery Department, LLC v. Naeem Aslam*, WIPO Case No. [D2024-1808](#); and *Frankie Shop LLC v. Jordan Cole*, WIPO Case No. [D2024-2160](#). The use of a domain name for illegal activity, such as claimed sale of counterfeit goods or impersonation of the Complainant, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. Moreover, a respondent's use of a domain name will not be considered “fair” if it falsely suggests affiliation with the trademark owner. [WIPO Overview 3.0](#), section 2.5. Here, the Disputed Domain Name consists solely of the Complainant's trademark and the term “official”, which naturally suggests affiliation or sponsorship by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

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 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. Other circumstances may also 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.

In particular, 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.

In the present case, the Respondent registered the Disputed Domain Name several years after the Complainant began using the mark. Considering the Complainant's prior use of the ETHEL CAIN mark, the prominent adoption of the mark on the mobile version of the Disputed Domain Name, and the Respondent's sale of “official” ETHEL CAIN merchandise imitating the Complainant's products, the Panel finds it implausible that the Respondent was unaware of the Complainant's right when registering the Disputed Domain Name.

Further, the Panel notes that the Respondent is using the Disputed Domain Name and the Complainant's mark for its own commercial gain by creating a likelihood of confusion as to the source or affiliation of its website and to trick consumers into believing the Disputed Domain Name is somehow associated with the Complainant. The Respondent also attempted to profit from the Complainant's reputation and goodwill by advertising directly to the Complainant's fans on social media, misleading them into believing the website was the Complainant's official store, and that the alleged counterfeit products offered were genuine ETHEL CAIN merchandise. Prior panels have held that the use of a domain name for illegal activity, such as the claimed sale of counterfeit goods, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Finally, the Respondent used a privacy service to conceal its identity and appears to have provided false contact information to the Registrar, as a third party contended that no one by the Respondent's name resides at the listed address and that both the Respondent and the Disputed Domain Name are unknown to them. See e.g., *MBK Rental Living, LLC v. Host Master, Transure Enterprise Ltd*, WIPO Case No. [D2023-1914](#); see also [WIPO Overview 3.0](#), section 3.2.1 (listing "the use of (false) contact details or a privacy screen to shield the registrant's identity" as indicia that support an inference of bad faith registration).

The Respondent also attempted to evade detection by only using the ETHEL CAIN mark in the Disputed Domain Name for the desktop version of the website, but the mobile version of the website is an imitation of the Complainant's storefront, prominently features the mark, and offers unauthorized and allegedly counterfeit ETHEL CAIN branded merchandise. As such, any good faith registration or use by the Respondent seems implausible.

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 <ethelcainofficial.shop> be transferred to the Complainant.

*/Purvi Patel Albers/*

**Purvi Patel Albers**

Sole Panelist

Date: November 6, 2025