

ADMINISTRATIVE PANEL DECISION

Deciem Beauty Group Inc. v. Cary Nedd, CaryNedd
Case No. D2025-3942

1. The Parties

The Complainant is Deciem Beauty Group Inc., Canada, represented by Gowling WLG (Canada) LLP, Canada.

The Respondent is Cary Nedd, Cary Nedd, United States of America. ("United States").

2. The Domain Name and Registrar

The disputed domain name <theordineryus.site> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 26, 2025. On September 29, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 29, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 7, 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 October 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 October 15, 2025. In accordance with the Rules, paragraph 5, the due date for Response was November 4, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 11, 2025.

The Center appointed Lorenz Ehrler as the sole panelist in this matter on November 25, 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 company active in the field of skin care and beauty. It was launched in 2013 and distributes its products all over the world, thus generating a turnover exceeding USD one billion.

The Complainant owns more than 400 trademark registrations worldwide which contain or are comprised of "THE ORDINARY" ("Complainant's Trademark"). One can mention in particular the following trademarks, all of them claiming goods in class 3:

- United States trademark THE ORDINARY, reg. no. 5203537, registered on May 16, 2017;
- European Union trademark THE ORDINARY, reg. no. 15761182, registered on December 8, 2016; and
- Chinese trademark THE ORDINARY, reg. no. 21258391, registered on November 14, 2017.

The disputed domain name <theordineryus.site> was registered on June 4, 2025. Before the filing of the Complaint, it resolved to an e-commerce website on which the Complainant's products were offered for sale using the Complainant's trademark, and purporting to be an official website of the Complainant or of an authorised reseller.

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 the disputed domain name is confusingly similar to its THE ORDINARY trademarks. It stresses the fact that the additional element "us" and the misspelling "theordinery" in the disputed domain name do not prevent a finding of confusing similarity.

Furthermore, the Complainant states that the Respondent is not affiliated or related to it in any way, and that it did not authorize the Respondent to use the trademark in question. The Complainant considers that the Respondent, not being an authorised reseller, is not entitled to use the THE ORDINARY trademark in the disputed domain name that resolves to a website on which THE ORDINARY products are offered for sale.

Lastly, the Complainant contends that the Respondent uses the disputed domain name and the website to which it resolves in a way to create confusion with the Complainant's trademark THE ORDINARY, which in its view constitutes bad faith.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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 holds several trademarks for THE ORDINARY. These trademarks are registered, among other things, in international class 3 (cosmetics) in many countries, in particular in the United States, where the Respondent seems to reside. The trademarks put forward by the Complainant are sufficient to found the Complaint.

Under the UDRP, the identity or confusing similarity requirement under paragraph 4(a) of the Policy requires identity or confusing similarity between complainant's trademarks and respondent's domain name. There is no requirement of similarity of goods and/or services (e.g., *AIB-Vincotte Belgium ASBL, AIB-Vincotte USA Inc./Corporation Texas v. Guillermo Lozada, Jr.*, WIPO Case No. [D2005-0485](#)).

The existence of a confusing similarity within the meaning of paragraph 4(a) of the Policy makes no doubt in the present case. Indeed, the distinctive element in the disputed domain name, i.e. "the ordinary" is, apart from the misspelling (ordinary instead of ordinary; cf. [WIPO Overview 3.0](#), section 1.9), identical with the Complainant's trademark THE ORDINARY. Taking into account that the trademark THE ORDINARY is recognisable, the other element of the disputed domain name, i.e. the abbreviation "us", which stands for United States, does not prevent a finding of confusing similarity.

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.

The Complainant contends that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Complainant has shown that it owns THE ORDINARY trademarks, and it has explicitly contested having granted the Respondent any right to use its trademarks. The Complainant has thus made a prima facie showing that the Respondent has no rights or legitimate interests in the disputed domain name. In line with previous UDRP panel decisions, this means, in principle, that the burden of production shifts to the Respondent (e.g., *Belupo d.d. v. WACHEM d.o.o.*, WIPO Case No. [D2004-0110](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

However, as results from the case file, the Respondent offers for sale goods identical or similar to those offered by the Complainant's group, by using the distinctive sign THE ORDINARY. Even though it is unclear whether the goods offered on the Respondent's website, which is operated under the disputed domain name, are genuine products or counterfeits, and even though the Respondent does not identify itself on the Contact page of its website, the Panel must consider the hypothetical (but rather unlikely) case that the goods offered are genuine, and therefore examine whether the website meets the Oki Data criteria (*Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#)).

While the Complainant (possibly) meets the first two requirements, namely that (i) it must be offering the goods or services at issue and (ii) that it must use the website to exclusively offer goods under the trademark contained in the disputed domain name, it clearly fails to overcome the hurdle of the third requirement. The third requirement is that the website must accurately disclose the Respondent's relationship with the Complainant. In the present case, this is far from being the case, as the Respondent's website does not contain any indications whatsoever clarifying the identity and the relationship of the Respondent with the Complainant (e.g. as an authorised distributor). To the contrary, the website creates the false impression that the Internet user is on the trademark owner's website, thus causing confusion. As a result, the Okidata principles are not met.

Since no other legitimate use is likely, the Panel reaches the conclusion that the Complainant has made a prima facie showing that the Respondent does not use the disputed domain name for legitimate commercial or fair use purposes.

The Respondent having failed to respond to the Complaint, this Panel concludes that the Respondent does not have any rights or legitimate interests with respect to the disputed domain name.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that the Complainant must, in addition to the matters set out above, demonstrate that the disputed domain name has been registered and is being used in bad faith.

The Complainant submits that the Respondent registered and is using the disputed domain name in bad faith. The undisputed prima facie evidence establishes that the Respondent is not affiliated with the Complainant, and has no license or other authorisation to use the Complainant's trademark or name.

The Respondent registered the disputed domain name well after the Complainant's mark was in use and became known within its specific product market. The Panel finds that the Respondent must have known about the Complainant's trademark and business when registering the disputed domain name. Given the use to which the Respondent put the disputed domain name shortly after registering it, it seems totally impossible to this Panel that the Respondent was unaware of the Complainant's trademark at the time of the registration of the disputed domain name.

The Respondent's choice of the disputed domain name, which incorporates the THE ORDINARY trademark with a typo, and its offering of goods identical or similar to the Complainant's under the latter's trademark THE ORDINARY, indicates indeed that the Respondent was aware of the existence of the Complainant's trademark THE ORDINARY.

Even in the unlikely event that the Complainant offers genuine THE ORDINARY goods (e.g. as a non-authorised reseller) rather than counterfeits, the misleading of Internet users and consumers into thinking that the Respondent is, in some way or another, connected to, sponsored by or affiliated with the Complainant and its business, or that the Respondent's activities are approved or endorsed by the Complainant, indicates bad faith (*Swarovski Aktiengesellschaft v. bingbing chen*, WIPO Case No. [D2011-1524](#)).

The Respondent has not submitted any evidence to rebut the Complainant's claims and assertions. In the absence of such evidence and based on the evidence submitted by the Complainant and having regard to all the relevant circumstances, the Panel accepts the Complainant's contentions that the disputed domain name was registered and is being used in bad faith within the meaning of paragraph 4(a)(iii) of 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 <theordineryus.site> be transferred to the Complainant.

/Lorenz Ehrler/

Lorenz Ehrler

Sole Panelist

Date: December 3, 2025