

## ADMINISTRATIVE PANEL DECISION

Joseph Berardi d/b/a Scissor Candy LLC v. Tyshawn Williams  
Case No. D2025-4371

### 1. The Parties

The Complainant is Joseph Berardi d/b/a Scissor Candy LLC, United States of America ("United States"), represented by Saul Ewing LLP, United States.

The Respondent is Tyshawn Williams, United States.

### 2. The Domain Name and Registrar

The disputed domain name <openchaircompany.com> is registered with GoDaddy.com, LLC (the "Registrar").

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 23, 2025. On October 24, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 24, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 30, 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 November 6, 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 November 21, 2025. In accordance with the Rules, paragraph 5, the due date for Response was December 11, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 19, 2025.

The Center appointed Dennis A. Foster as the sole panelist in this matter on December 24, 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 United States company that since 2008 has pursued business in hair salon services.

In conjunction with its hair salon services, the Complainant uses the United States registered trademark OPEN CHAIR, registration no. 3,734,115, registration date January 5, 2010, International Class 044 for hair salon services.

The Respondent is an individual who registered the disputed domain name on January 25, 2025. For some time after the disputed domain name registration, the website featured hair salon services on a non-interactive website, but the Respondent removed this in September 2025, and since then the disputed domain name has not resolved to anything.

#### **5. Parties' Contentions**

##### **A. Complainant**

Per the below Contentions, the Complainant contends that it has satisfied each of the elements required under the Policy for transfer of the disputed domain name.

--The Complainant is the owner of the United States trademark OPEN CHAIR, which trademark has been used continuously since 2008 in connection with the Complainant's hair salon services.

--The disputed domain name is confusingly similar to the Complainant's OPEN CHAIR trademark which was registered in 2010.

--The Complainant's OPEN CHAIR trademark is fully incorporated into the disputed domain name, and the addition of the descriptive term "company" in the disputed domain name should not prevent a finding of confusing similarity.

--The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not making a legitimate non commercial or fair use of the disputed domain name.

--There is no operable functionality of the disputed domain name website, and the use of the OPEN CHAIR trademark suggests a connection to the Complainant when no such connection exists.

--The disputed domain name website has earlier contained content which the Respondent has no authority to use.

--The Respondent is not making a bona fide offering of goods or services because the website at the disputed domain name is not working.

--The Respondent is not making a non commercial or fair use of the disputed domain name because the Respondent's website earlier purported to offer the same services as the Complainant, which would have been for payment.

--The Respondent registered and is using the disputed domain name in bad faith.

--The Complainant's registration and use in business of its OPEN CHAIR trademark long predate the Respondent's registration of the disputed domain name.

--When the Respondent registered the disputed domain name, he was clearly aware of the Complainant and its trademark.

--The disputed domain name should be transferred..

## **B. Respondent**

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

## **6. Discussion and Findings**

Pursuant to Policy paragraphs 4(a)(i) - (iii), the Panel may render a decision for the Complainant and grant a transfer or cancellation of the disputed domain name, if the Complainant establishes that:

- The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- The Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- The disputed domain name has been registered and is being used in bad faith

### **A. Identical or Confusingly Similar**

The Complainant has annexed a copy of its United States OPEN CHAIR trademark registration whose details the Panel has set out above in the Factual Background section. The Panel finds this is proof that the Complainant has trademark rights in that name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.2.1.

The Panel notes that the Respondent has added the word “company” to the Complainant's trademark, but the Panel finds the Complainant's trademark still is readily recognizable, and that therefore the disputed domain name is confusingly similar to the Complainant's trademark. [WIPO Overview 3.0](#), sections 1.7 and 1.8.

The Panel thus finds that the Complainant has carried its burden of proof under Policy paragraph 4(a)(i) to show that the disputed domain name is confusingly similar to the Complainant's trademark.

### **B. Rights or Legitimate Interests**

The Policy consensus is that, because of the difficulty a complainant might encounter in trying to prove that a respondent has no rights or legitimate interests in a disputed domain name, i.e., to prove a negative, it is initially sufficient that a complainant make out a *prima facie* case that a respondent has no rights or legitimate interests in a disputed domain name. Then the burden of production shifts to the respondent to come forward with evidence tending to show that the respondent does have rights or legitimate interests in the disputed domain name, although the overall burden of proof remains on the Complainant. [WIPO Overview 3.0](#), section 2.1.

In our present case, the Complainant has contended that the Respondent had no authorization to use the Complainant's trademark in the disputed domain name or at his website during the time he had one. The Panel finds this makes out a *prima facie* case. [WIPO Overview 3.0](#), section 2.1. For his part, the Respondent is in default and has not come forward with countervailing evidence to show that he would have

rights or legitimate interests in the disputed domain name. But for the sake of completeness, the Panel will review the record with a view to deciding whether there is evidence tending to show the Respondent might have rights or legitimate interests in the disputed domain name as permitted under Policy paragraphs 4(c)(i), (ii) and (iii).

Under Policy paragraph 4(c)(i), the Respondent could show that he is using the disputed domain name to make a bona fide offering of goods or services. However, in fact the Respondent has used the disputed domain name for a short period of time for “passing off” to offer services that compete with the Complainant’s, and for the rest of the time to not use it. [WIPO Overview 3.0](#), section 2.13.1. The Panel finds this is not a bona fide offering of goods or services. See *Pierre Fabre Dermo-Cosmetique v. Simon Chen/personal/jinpingguo*, WIPO Case No. [D2011-0769](#) where the panel found “There can be no legitimate interest in the sale of counterfeits.”

Proceeding to Policy paragraph 4(c)(ii), the Respondent has not been commonly known as the disputed domain name. And as for Policy paragraph 4(c)(iii), the Respondent’s brief use of the disputed domain name was commercial, not non commercial or fair use as allowed by this Policy paragraph.

The Panel therefore finds that the Complainant has carried its burden of proof under Policy paragraph 4(a)(ii) to show that the Respondent does not have rights or legitimate interests in the disputed domain name.

### **C. Registered and Used in Bad Faith**

The Policy at paragraph 4(b) provides four non-exhaustive circumstances in which a respondent may be found to have registered and to be using a disputed domain name in bad faith. The Panel finds the Respondent has violated the Policy bad faith provision at paragraph 4(b)(iv) because for financial gain he has registered a domain name confusingly similar to the Complainant’s trademark.

Other circumstances may also lead a panel to find that a respondent has registered and is using a disputed domain name in bad faith. [WIPO Overview 3.0](#), section 3.2.1. In the present case, the Respondent has for an interval used the disputed name and its website to purport to offer the same hair salon services that the Complainant offers. This is widely considered to be per se bad faith registration and use under the Policy. [WIPO Overview 3.0](#), section 3.4. And see *Pierre Fabre Dermo-Cosmetique v. Simon Chen/personal/jinpingguo*, WIPO Case No. [D2011-0769](#). The Panel is aware that the Complainant’s trademark and business do not seem to be widely known beyond the Philadelphia region, but geographical proximity with the Complainant appears to have allowed the Respondent (apparently based in a nearby city) to know of and to decide to target the Complainant and its business.

The Panel thus finds that the Complainant has carried its burden of proof to show that the Respondent has registered and is using the disputed domain name in bad faith per Policy paragraph 4(a)(iii).

### **7. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, and in accordance with the Complainant’s specific request, the Panel orders that the disputed domain name <openchaircompany.com> transferred to the Complainant.

/Dennis A. Foster/

**Dennis A. Foster**

Sole Panelist

Date: January 7, 2026