

## **ADMINISTRATIVE PANEL DECISION**

Pouring Pounds India Private Limited v. Domain Privacy, Domain Name Privacy Inc.

Case No. DCO2024-0010

### **1. The Parties**

The Complainant is Pouring Pounds India Private Limited, India, represented by Sujata Chaudhri IP Attorneys, India.

The Respondent is Domain Privacy, Domain Name Privacy Inc., Cyprus.

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

The disputed domain name <cashkaro.co> is registered with Communigal Communications Ltd. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 5, 2024. On February 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 8, 2024, 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 February 8, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant did not file an amendment to the Complaint or amended Complaint.

The Center verified that 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 February 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 8, 2024.



The Center appointed Taras Kyslyy as the sole panelist in this matter on March 13, 2024. 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 primarily engaged in the business of providing performance marketing services through advertising and promotion services to various entities and offers for sale various kinds of goods and services through its websites as well as e-commerce marketplaces. The Complainant was founded in the United Kingdom in 2011 and is an operator of rewards, cashback, and voucher websites. In the year 2013, the Complainant commenced its India business with the launch of its website “www.cashkaro.com”, which offers cashback on more than 2,000 e-commerce accomplices including e-commerce giants, such as ShopClues, Paytm, Amazon.in, Flipkart, and Myntra.

The Complainant owns trademark registrations for CASHKARO trademark in India, including, registration No. 3141535, registered on December 29, 2015.

Since its adoption, the Complainant has amassed significant revenues. The Complainant spends significant sums of money on the advertisement and promotion of the Complainant’s services offered under its trademark.

The disputed domain name was registered on July 11, 2023 and resolved to a webpage comprising of pay-per-click links to third party websites offering services related to the Complainant. At the time of the decision in the present case the disputed domain name does not resolve to any active website.

#### **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 identical or confusingly similar to the Complainant’s trademark. The Complainant’s trademark was registered well before the disputed domain name. The disputed domain name incorporates the Complainant’s trademark in its entirety. The mere addition of the country-code Top-Level Domain (the “ccTLD”) “.co”, after the mark CASHKARO does nothing to distinguish the disputed domain name from the Complainant’s trademark. The ccTLD “.co” is immaterial to the analysis of confusing similarity because it is required in every domain name, and is, consequently, non-distinctive.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent cannot have any right or legitimate interest in the disputed domain name because it incorporates the Complainant’s trademark in its entirety. The Respondent registered the disputed domain name on July 11, 2023, which, is more than a decade after the date on which the Complainant first used its trademark. The Respondent is not a licensee of the Complainant, nor has the Respondent ever been authorized by the Complainant to use the Complainant’s trademark or register the disputed domain name. The Complainant has no relationship whatsoever with the Respondent. The Respondent is not making any legitimate, noncommercial, or fair use of the disputed domain name because there is no web site associated with the disputed domain name.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. The Respondent is not using the website to which the disputed domain name resolves. The Respondent’s bad faith constitutes “passive holding”. The Respondent who registered the disputed domain



name in full knowledge of the Complainant's trademark and has not put the disputed domain name to any active use, evidently registered the disputed domain name in bad faith. It is more than a coincidence that the Respondent chose and registered the disputed domain name that is identical/confusingly similar to the Complainant's trademark. The Complainant has a long and well-established reputation in the Complainant's trademark through its exclusive use. The Respondent was aware of the Complainant's trademark when it chose and registered the disputed domain name. The Respondent chose the disputed domain name because it was confusingly similar to the Complainant's trademark and intended to capitalize on that confusion. The Respondent's use of the disputed domain name is bound to lead to confusion and deception in the minds of the public. The Complainant's trademark has been used extensively by the Complainant and understood by consumers as marks that identify the Complainant's services. The Respondent's intention is to take advantage of the Complainant's reputation in order to make illegal gains to the detriment of the Complainant, prevent the Complainant from reflecting the Complainant's trademark in a corresponding domain name, and create a likelihood of confusion amongst the public as to the source, sponsorship, affiliation, or endorsement of the disputed domain name.

## **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 (service mark) for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical 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 available evidence does not confirm that the Respondent is commonly known by the disputed domain name, which could demonstrate its rights or legitimate interests (see, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones, TheDotCafe*, WIPO Case No. [D2008-0642](#)).

The Complainant did not license or otherwise agree for use of its prior registered trademarks by the Respondent, thus no actual or contemplated bona fide or legitimate use of the disputed domain name could be reasonably claimed (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#)).

The use of a domain name to host a parked page comprising pay-per-click links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users. The Panel finds this applies to the present case. [WIPO Overview 3.0](#), section 2.9.

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 notes that the Respondent registered the disputed domain name identical to the Complainant's trademark, used ".co" ccTLD closest possible option to gTLD ".com" of the Complainant's identical domain name, and made the disputed domain name to resolve to a webpage with pay-per-click links capitalizing on the Complainant's goodwill. The Panel finds this confirms the Respondent knew or should have known of the Complainant and its trademark and targeted it when registering the disputed domain name, which is bad faith. [WIPO Overview 3.0](#), section 3.2.2.

According to paragraph 4(b)(iv) of the Policy the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith: by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location. Using the disputed domain name to host a pay-per-click parking page the Respondent creates a likelihood of confusion with the Complainant's trademark and potentially obtains revenue from this practice, which is bad faith. The fact that after the Complaint filing the Respondent ceased use of the disputed domain name does not negate the bad faith. [WIPO Overview 3.0](#), section 3.3.

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 <cashkaro.co> be transferred to the Complainant.

/Taras Kyslyy/

**Taras Kyslyy**

Sole Panelist

Date: March 19, 2024