

ADMINISTRATIVE PANEL DECISION

Clarins v. shaghayegh gholami shaghayegh gholami
Case No. D2022-4068

1. The Parties

The Complainant is Clarins, France, represented by Tmark Conseils, France.

The Respondent is shaghayegh gholami shaghayegh gholami, Tajikistan.

2. The Domain Name and Registrar

The disputed domain name <clarinsbeauty.com> is registered with 1API GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 28, 2022. On October 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 2, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on November 2, 2022 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 4, 2022.

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 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 24, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 25, 2022.

The Center appointed George R. F. Souter as the sole panelist in this matter on December 1, 2022. 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 has been trading in cosmetics and make-up under its CLARINS trademark in France for over 60 years, and details of its international trading have been supplied to the Panel.

The Complainant is the proprietor of many registrations of its trademark CLARINS, covering beauty products, including:

French registration number 1637194, registered on January 7, 1991,

European Union Trade Mark registration number 005394283, registered on October 5, 2010, and

United States registration number 0935002, filed on June 2, 1970 and registered on May 30, 1972.

The disputed domain name was registered on May 22, 2022, and resolves to a website displaying notably a sponsored link to a commercial website offering goods identical to those traded in by the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant alleges that the disputed domain name is confusingly similar to its CLARINS trademark, including the Complainant's CLARINS trademark in its entirety, with inconsequential additions.

The Complainant alleges that the Respondent lacks rights or legitimate interests in the disputed domain name, in particular that it has never granted permission to the Respondent to use its CLARINS trademark in connection with the registration of a domain name, or otherwise, and that the Respondent is not making a noncommercial or fair use of the disputed domain name, since it is used in relation with a website offering for sale cosmetic products, in which the Complainant's CLARINS trademark is prominently displayed.

The Complainant alleges that the disputed domain name was registered in bad faith, and is being used in bad faith in connection with the website as referred to above.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements that the Complainant must prove to merit a finding that the disputed domain name be transferred to the Complainant:

- (i) the disputed domain name 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. Confusing similarity

The Panel finds that the Complainant has rights to its CLARINS trademark for the purposes of these proceedings.

It is well established in prior decisions under the UDRP, with which the Panel agrees, that a generic Top-Level Domain (“gTLD”) may generally be disregarded when comparing a trademark with a disputed domain name. The Panel considers the “.com” gTLD to be irrelevant in the circumstances of the present case, and finds that it may be disregarded here.

The Complainant’s CLARINS trademark is clearly recognizable in the disputed domain name, rendering the disputed domain name confusingly similar to the Complainant’s trademark, and the additional elements do not detract from this finding. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 1.8.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in connection with the disputed domain name.

B. Rights or Legitimate Interests

The Panel considers that the Complainant’s allegations are sufficient to provide a *prima facie* case under this heading.

It is the consensus view of UDRP panels, with which the Panel agrees, that a *prima facie* case advanced by the complainant will generally be sufficient for the complainant to be deemed to have satisfied the requirement of paragraph 4(a)(ii) of the Policy, provided the respondent does not come forward with evidence demonstrating rights or legitimate interests in the domain name and the complainant has presented a sufficient *prima facie* case to succeed under paragraph 4(a)(ii) of the Policy.

The Respondent did not advance any claim of rights or legitimate interests in the disputed domain name to rebut this *prima facie* case.

Furthermore, the nature of the disputed domain name, incorporating the Complainant’s well-known CLARINS trademark, carries a risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy, in connection with the disputed domain name.

C. Registered and Used in Bad Faith

The Panel is of the view that the finding that a respondent has no rights or legitimate interests in a disputed domain name can lead, in appropriate circumstances, to a finding of registration of a disputed domain name in bad faith. The circumstances of the present case, in which the Panel regards it as self-evident that the Complainant’s CLARINS trademark was deliberately appropriated in the disputed domain name, are such that the Panel concludes that a finding of registration in bad faith is justified in connection with the disputed domain name and so finds.

The disputed domain name resolves to a website with a sponsored link to a commercial website offering goods identical to those traded in by the Complainant, with prominent use of the Complainant’s CLARINS trademark. It is well-established in prior decisions under the Policy that the use of a disputed domain in connection with the sale of goods competing with those of the Complainant constitutes use of a disputed domain name in bad faith. Accordingly, in the circumstances of the present case, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(iii) 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 <clarinsbeauty.com> be transferred to the Complainant.

/George R. F. Souter/

George R. F. Souter

Sole Panelist

Date: December 15, 2022