

## **ADMINISTRATIVE PANEL DECISION**

Bubble Beauty, Inc. DBA Bubble Skincare v. 卢剑锋 (Jianfeng Lu)  
Case No. D2023-3473

### **1. The Parties**

The Complainant is Bubble Beauty, Inc. DBA Bubble Skincare, United States of America (“United States”), represented by VLP Law Group LLP, United States.

The Respondent is 卢剑锋 (Jianfeng Lu), China.

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

The disputed domain name <bubbleskincare.com> is registered with Jiangsu Bangning Science & technology Co. Ltd. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on August 16, 2023. On August 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 17, 2023, 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 August 18, 2023, 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 in English on September 5, 2023.

On August 18, 2023, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On August 20, 2023, the Complainant submitted its request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 in English and Chinese of the Complaint, and the proceedings commenced on September 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 27, 2023.

The Center appointed Rachel Tan as the sole panelist in this matter on October 9, 2023. 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 global retailer of a line of skincare products sold under the trade mark BUBBLE SKINCARE. It was started in 2018 by the founder and CEO, Shai Eisenman. The Complainant's skincare products are sold in over 3,800 Walmart stores nationwide, on "www.walmart.com", through CVS, Ulta Beauty, and through the Complainant's official BUBBLE SKINCARE website accessed through the Complainant's official domain name <hellobubble.com>.

The Complainant is the owner the United States Trade Mark Registration No. 7043262 for BUBBLE SKINCARE, registered on May 2, 2023, in class 3. The Complainant also holds rights for other trade marks such as: United States Trade Mark Registration No. 6942469 for BREAK EVEN, registered on January 3, 2023, in class 3; and United States Trade Mark Registration No. 6942470 for SLAM DUNK, registered on January 3, 2023, in class 3.

The Complainant is the owner of the domain name <hellobubble.com> which was registered on May 20, 2019.

The Respondent is 卢剑锋 (Jianfeng Lu), China.

The disputed domain name was registered on July 12, 2023. At the date of this Decision, the disputed domain name resolved to a website in English indicating that a web server was installed and required further configuration. At the time of filing of the Complaint, the disputed domain name resolved to a website in English, which allegedly imitated the Complainant's official BUBBLE SKINCARE website. In particular, it was alleged to offer the Complainant's various skincare products for sale using the Complainant's BUBBLE SKINCARE mark, featuring the Complainant's SLAM DUNK and BREAK EVEN marks, displaying copyright-infringing copies of the Complainant's digital images of its products using their identical logos, fonts, and colored containers, as well as using a similar layout and format of the images for its products in imitation of the format and layout utilized on the Complainant's official website.

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

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

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's BUBBLE SKINCARE mark. The disputed domain name consists of the BUBBLE SKINCARE mark in its entirety and is identical except for the addition of a final letter "s" creating a plural form of the Complainant's BUBBLE SKINCARE mark, and adding the generic Top-Level Domain ("gTLD") ".com". The Complainant asserts that the additional letter and gTLD do not prevent a finding of confusing similarity with the Complainant's BUBBLE SKINCARE mark.

The Complainant further alleges that the Respondent has no rights or legitimate interests with respect to the disputed domain name. The Respondent has never been authorized by the Complainant to use any of its marks in any manner. The Respondent is not commonly known by the disputed domain name. The disputed domain name resolved to an imitation website claiming to offer various skincare products for sale

under the BUBBLE SKINCARE brand name, which constitutes no *bona fide* commercial or fair or legitimate noncommercial use of the disputed domain name.

The Complainant finally asserts that the Respondent registered and is using the disputed domain name in bad faith. The Respondent has actual knowledge of the Complainant's rights in the Complainant's marks as it has registered the disputed domain name well after the Complainant had registered all of the Complainant's marks, used the disputed domain name to direct users to a webpage offering competing goods under the Complainant's marks, and registered and used the disputed domain name to disrupt the Complainant's business and attract Internet users for commercial gain by creating a likelihood of confusion with the Complainant's BUBBLE SKINCARE mark as to the source, sponsorship, affiliation, or endorsement of the website to which the disputed domain name resolved.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 Preliminary Issue: Language of the Proceeding**

Initially, the Panel must address the language of the proceeding. Paragraph 11(a) of the Rules provides that the language of the administrative proceeding shall be the language of the Registration Agreement unless otherwise agreed by the parties, subject to the authority of the panel to determine otherwise, having regard to the circumstances of the administrative proceeding. The panel may choose to write a decision in either language, or request translation of either party's submissions.

In this case, the Registrar has confirmed to the Center that the language of the Registration Agreement as used by the registrant for the disputed domain name is Chinese. However, the Complainant has requested that English be adopted as the language of the proceeding for the reasons summarised below:

- (a) the Complainant is located in the United States where English is the primary language, and does not understand Chinese;
- (b) the Complainant's official website markets its goods and services primarily in English and offers and sells its products in USD;
- (c) the Registrar's registration agreement for the disputed domain name is in both English and Chinese;
- (d) if Chinese is used as the language of the administrative proceeding, the Complainant will be required to use professional translation services and bear high translation costs to translate its Complaint and all supporting documents into Chinese, which will also cause delays to the proceeding; and
- (e) the Respondent is clearly likely to be able to understand English because the disputed domain name is comprised entirely of English words and the resolved website is in English.

It is established practice to take paragraphs 10(b) and 10(c) of the Rules into consideration for the purpose of determining the language of the proceeding, in order to ensure fairness to the parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes. Language requirements should not lead to undue burdens being placed on the parties and undue delay to the proceeding.

The Panel having considered the circumstances finds that English shall be the language of this proceeding. The reasons are set out below:

(a) the Complainant is based in the United States. Requiring the Complainant to translate the Complaint in Chinese would lead to delay and cause the Complainant to incur translation expenses;

(b) the Respondent's choice of Roman letters for the disputed domain name and English for the resolved website indicate that the Respondent is familiar with the English language;

(c) even if the Respondent does not possess a sufficient command of English to understand the Complaint, there were ample opportunities for the Respondent to raise an objection. The Center notified the Parties in English and Chinese of the language of the proceeding, the Complainant requested English to be the language of the proceeding, but the Respondent did not protest against this request;

(d) the Respondent has failed to participate in the proceeding even though the Center sent the notification of the Complaint in English and Chinese, and indicated that the Response may be submitted in Chinese or English; and

(e) the Complaint has been submitted in English. No foreseeable procedural benefit may be served by requiring Chinese to be used. On the other hand, the proceeding may proceed expeditiously in English.

Accordingly, the Panel determines that English will be the language of the proceeding and will proceed with issuing this Decision in English.

## **6.2 Substantive Issues**

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

The Panel is satisfied that the Complainant has adduced evidence to demonstrate its established rights in the BUBBLE SKINCARE mark.

The Panel notes that the BUBBLE SKINCARE mark is wholly encompassed within the disputed domain name. The BUBBLE SKINCARE mark is instantly recognizable in the disputed domain name. In cases where a domain name incorporates the entirety of a trade mark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing. See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Further, it is accepted by previous UDRP panels that the addition to the complainant's trade mark of other words or terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity between the domain name and the complainant's trade mark under the first element of the Policy. See section 1.8 of the [WIPO Overview 3.0](#). As such, the Panel finds the additional letter "s" does not preclude a finding of confusing similarity between the BUBBLE SKINCARE mark and the disputed domain name.

Lastly, it is permissible for the Panel to ignore the gTLD, in this case ".com". See section 1.11.1 of the [WIPO Overview 3.0](#). Consequently, the Panel finds that the disputed domain name is confusingly similar to the Complainant's mark.

Accordingly, the Complainant has satisfied the first element under paragraph 4(a) of the Policy.

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

In circumstances where the Complainant possesses rights to the BUBBLE SKINCARE mark, whereas the Respondent seems to have no trade mark rights, the Panel is satisfied that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, and the burden of production shifts to the Respondent to show that he or she has rights or legitimate interests in the disputed domain name. See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent has not provided evidence of a legitimate noncommercial or fair use of the disputed domain name or reasons to justify his or her choice of the term “bubble skincare” in the disputed domain name. There is no indication to show that the Respondent is commonly known by the disputed domain name or otherwise has rights or legitimate interests in it. Moreover, the Complainant has not granted the Respondent any license or authorization to use the Complainant’s marks or register the disputed domain name.

The Panel notes that the disputed domain name previously resolved to a website in English, which allegedly imitated the Complainant’s official BUBBLE SKINCARE website. In particular, it was alleged to offer the Complainant’s various skincare products for sale using the Complainant’s BUBBLE SKINCARE mark, featuring the Complainant’s SLAM DUNK and BREAK EVEN marks, displaying copyright-infringing copies of the Complainant’s digital images of its products using their identical logos, fonts, and colored containers, as well as using a similar layout and format of the images for its products in imitation of the format and layout utilized on the Complainant’s official website. The website did not accurately and prominently disclose a lack of a relationship between the Complainant and the Respondent. Therefore, the facts do not support a claim of a *bona fide* offering of goods or services under the “Oki Data test”. See *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#).

Furthermore, the nature of the disputed domain name, comprising the Complainant’s BUBBLE SKINCARE mark with the addition of one letter, indicates an awareness of the Complainant and its mark and intent to take unfair advantage of such, which does not support a finding of any rights or legitimate interests in these circumstances.

None of the circumstances in paragraph 4(c) of the Policy are present in this case. For these reasons, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

Accordingly, the Complainant has satisfied the second element under paragraph 4(a) of the Policy.

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

The Complainant’s BUBBLE SKINCARE mark was registered well before the registration of the disputed domain name. Through use and advertising, the Complainant’s BUBBLE SKINCARE mark is known throughout the world, including in China. Search results using the terms “bubble skincare” on the Internet search engines direct Internet users to the Complainant and its products, which indicates that an exclusive connection between the BUBBLE SKINCARE mark and the Complainant has been established. As such, the Respondent should have known of the Complainant’s business and BUBBLE SKINCARE mark when registering the disputed domain name. This fact is reinforced by the Respondent’s use of the BUBBLE SKINCARE mark on the products offered at the website to which the disputed domain name previously resolved.

Further, the Panel notes that the previous website hosted by the Respondent under the disputed domain name on which various skincare products using the Complainant’s BUBBLE SKINCARE mark were offered for sale, noticeably lacked a disclaimer that the Respondent is not affiliated with the Complainant. The Panel is satisfied that the Respondent intends to take advantage of the reputation of the Complainant’s trade marks to attract, for commercial gain, Internet users to the Respondent’s website by creating a likelihood of confusion with the Complainant’s marks as to source, sponsorship, affiliation, or endorsement of the website. This demonstrates bad faith registration and use of the disputed domain name, as provided in paragraph 4(b)(iv) of the Policy.

The Panel finds the current passive holding of the disputed domain name in this case would not prevent a finding of bad faith under the doctrine of passive holding. In its determination, the Panel considers the degree of reputation of the Complainant’s BUBBLE SKINCARE mark, the Respondent’s failure to respond in the face of the Complainant’s allegations of bad faith, as well as the implausibility of any good faith use that the disputed domain name may be put. See section 3.3 of the [WIPO Overview 3.0](#).

Given all the circumstances of the case, the Panel finds that the Respondent must have known of the Complainant before registering the disputed domain name, and considering the Respondent’s lack of rights

or legitimate interests, and by registering and using the disputed domain name as discussed above as well as continuing to passively hold the disputed domain name, the Panel is led to conclude that the disputed domain name was registered and is being used in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied the third element under paragraph 4(a) 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 <bubbleskincares.com> be transferred to the Complainant.

*/Rachel Tan/*

**Rachel Tan**

Sole Panelist

Date: October 19, 2023