

ADMINISTRATIVE PANEL DECISION

Urban Outfitters Inc. v. Gergana Raycheva, Edoms LLC
Case No. D2023-3587

1. The Parties

The Complainant is Urban Outfitters Inc., United States of America (“United States”), represented by SafeNames Ltd., United Kingdom.

The Respondent is Gergana Raycheva, Edoms LLC, Bulgaria.

2. The Domain Name and Registrar

The disputed domain name <anthropologie.net> is registered with DropCatch.com LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 25, 2023. On August 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 25, 2023, the Registrar transmitted by email to the Center its verification response, confirming that the Respondent is listed as the registrant and providing the contact details.

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 September 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 25, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 26, 2023.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on September 29, 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 corporation based in the United States that owns a portfolio of clothing and retail brands which include Urban Outfitters, Free People and Anthropologie and that had net sales of USD 3.45 billion in 2021.

The Complainant's ANTHROPOLOGIE brand was launched in 1992 and offers an eclectic product assortment which includes women's casual apparel, accessories, intimates, shoes, home furnishings, gifts, decorative items, as well as beauty and wellness products; presently operating the Complainant more than 200 stores around the world.

The Complainant is the owner of the domain name <anthropologie.com>, registered in 1998, and from which resolves the Complainant's official website, as well as of the following, amongst others, trademarks (Annex 10 to the Complaint):

- United States trademark registration No. 1,814,261 for ANTHROPOLOGIE, registered on December 28, 1993, in class 42, successively renewed;
- European Union Trade Mark registration No. 003786051, for ANTHROPOLOGIE, registered on July 14, 2005, successively renewed, in classes 18, 25, and 35; and
- International trademark registration No. 1356914, for ANTHROPOLOGIE, registered on March 16, 2017, in classes 3, 4, 14, 18, 20, 21, 25, 27, and 35.

The disputed domain name was registered on May 28, 2023 and redirected Internet users to a gambling webpage at the time of filing of the Complaint. The Complainant presented evidence that the disputed domain name resolved to parked webpage displaying pay-per-click ("PPC") links competitive to the services of the Complainant before the filing of its Complaint. At the time of the decision, the disputed domain name resolves to parked webpage with PPC links.

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 entirely reproduces the well-known ANTHROPOLOGIE trademark.

Also, according to the Complainant, the Respondent has no rights or legitimate interests in the disputed domain name given that:

- (i) the Respondent has not registered any trademarks for the term ANTHROPOLOGIE, nor is there any evidence that the Respondent retains any unregistered trademark rights to the term ANTHROPOLOGIE;
- (ii) the Respondent has not received any license from the Complainant to use a domain name featuring the ANTHROPOLOGIE trademark;
- (iii) the Respondent has not used, nor prepared to use, the disputed domain name in connection with a *bona fide* offering of goods or services, nor has the Respondent made a legitimate noncommercial or fair use of the disputed domain name;

- (iv) the disputed domain name was previously used to display PPC advertisement links, some of which related to the Complainant and others redirected users to sites which offered competing goods and services to those of the Complainant (Annex 13 to the Complaint); and
- (v) the Respondent is not commonly known by the term “anthropologie”.

The Complainant further contends that the disputed domain name was both registered and used in bad faith given the goodwill and recognition of the Complainant’s trademark and the PPC links which used to be displayed at the website that resolved from the disputed domain name and which redirected Internet users to competing websites clearly creating a risk of confusion. Also, according to the Complainant, given that the disputed domain name is identical to the Complainant’s well-known mark it carries a high risk of implied affiliation therewith. Furthermore, the Complainant submits that the Respondent’s bad faith is reinforced by the fact that the Complainant sent a cease and desist letter to the Respondent via email on June 8, 2023 (Annex 16 to the Complaint) which remains unanswered, as well as by the indication that the Respondent appears to hold a portfolio of domain names that incorporate third-party trademarks (Annex 17 to the Complaint).

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth the following three requirements which the Complainant must meet in order for the Panel to order the transfer of the disputed domain name:

- (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.

The Complainant must prove in this administrative proceeding that each of the aforesaid three elements is present in order to obtain the transfer of the disputed domain name.

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.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, 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. These circumstances are:

- (i) before any notice of the dispute, the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the Respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, in spite of not having acquired trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

While 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 often impossible 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. 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 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.

In that sense, and according to the evidence submitted, the Complainant has made a *prima facie* case against the Respondent whom has used the disputed domain name in connection with a website displaying trademark-competitive PPC links, what clearly does not constitute a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use of the disputed domain name in these circumstances. The use of the disputed domain name to redirect Internet users to a gambling website also does not characterize a *bona fide* offering of goods or services under the Policy.

Also, the lack of evidence as to any trademarks registered by the Respondent corresponding to the disputed domain name, corroborates the indication of an absence of rights or legitimate interests in the disputed domain name.

Based on the available record, 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 disputed domain name carries a high risk of implied affiliation given that the disputed domain name is identical to the Complainant's well-known trademark. Previous UDRP panels have consistently found that the mere registration of a domain name that is identical or

confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

Also, both the registration and use of the disputed domain name in bad faith can be found pursuant to Policy, paragraph 4(b)(iv), in view of the website that used to be available at the disputed domain name, which creates a likelihood of confusion with the Complainant's goodwill and the Respondent unlawfully earning PPC revenues from the advertisements therein placed.

Moreover, in these circumstances, bad faith of the Respondent is also supported here by (i) the lack of reply by the Respondent to the cease and desist letter sent prior to this proceeding; and (ii) the lack of reply by the Respondent invoking any rights or legitimate interests.

Based on the available record, the Panel finds the third element of the Policy has been established.

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, <anthropologie.net>, be transferred to the Complainant.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Sole Panelist

Date: October 14, 2023