

## **ADMINISTRATIVE PANEL DECISION**

Clarins v. Hung Tr Trần  
Case No. D2024-0485

### **1. The Parties**

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

The Respondent is Hung Tr Trần, Viet Nam.

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

The disputed domain name <clarins.world> 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 February 1, 2024. On February 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 2, 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 (IDENTITY UNDISCLOSED) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 5, 2024, 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 February 8, 2024.

The Center verified that the Complaint together with 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 February 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 5, 2024.

The Center appointed Clive Duncan Thorne as the sole panelist in this matter on March 8, 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 a major player in the field of cosmetics and make-up products. It has been established in France for more than 60 years where it is well-known and also well-established throughout the world. Evidence of the history of the Complainant and its trading activity is set out in Annex 4 to the Complaint.

The Complainant owns, as exclusive proprietor, many trademarks worldwide for the mark CLARINS including in European countries, United Kingdom, Canada, China, United States of America, South Africa and Viet Nam. Evidence of the certificates of registration of the Complainant's trade marks is set out in Annex 5 to the Complaint.

Examples of the Complainant's trademark registrations for CLARINS are:

Viet Nam No. 208808 registered April 10, 1958, covering beauty products in Class 3.

France No.1637194 registered January 7,1991 covering cosmetics in Class 3.

European Union No. 005394283 registered October 17,2006 covering cosmetics in Class 3.

The above registrations predate the date of registration of the disputed domain name on January 24, 2024.

The name CLARINS constitutes the Complainant's registered company name. It trades internationally using the domain name <clarins.com> registered on March 16,1997. It also owns the domain name <clarinsusa.com> registered on November 11,1997 for access to its US website.

The Complainant points out that the Respondent, Hung Tr Trần, has an address in Da Nang, Viet Nam. There is no evidence that there is any trading activity by the Respondent using the disputed domain name. The disputed domain name is not redirecting towards any active website. At Annex 7 the Complainant exhibits a printout which consists merely of a short message written in Vietnamese (translated into English as "Your domain name has been successfully pointed! Please publish a Landing Page with the above domain name to use the service. Thank you!"). No other evidence is adduced regarding the Respondent or its activities.

#### **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;

- i. Based on the evidence of the Complainant's trade marks the disputed domain name is confusingly similar to the mark CLARINS in which the Complainant owns registered trademark rights;
- ii. There is no evidence that the Respondent has any rights or legitimate interests in respect of the disputed domain name;
- iii. On the evidence the Respondent registered and is using the disputed domain name in bad faith.

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

The Panel finds the Complainant has established unregistered trademark or service mark rights for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3.

The Panel finds the mark is recognizable within the Second Level of 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 Top Level Domain (TLD) of the disputed domain name is ".world". The Panel notes the general practice of disregarding the TLD in determining identity or confusing similarity, which is applied irrespective of the particular TLD (including with regard to "new gTLDs"); the ordinary meaning ascribed to a particular TLD would not necessarily impact assessment of the first element. . [WIPO Overview 3.0](#), section 1.11.2.

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.

In particular the Panel takes into account the evidence that the Complainant has used the mark CLARINS for many years prior to registration of the disputed domain name throughout the world including in Asia where the Respondent is based. It also takes into account that there is no evidence, as shown by Annex 7, of any genuine trading activity using the disputed domain name by the Respondent.

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.

Panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant’s trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

In particular on the evidence the Panel agrees with the Complainant’s submission that it is hard to believe that the registration of the disputed domain name was a mere coincidence and that it is not possible to conceive of any plausible, actual or contemplated active use of the disputed domain name by the Respondent would not be illegitimate, such as being a passing off or an infringement of the Complainant’s trade mark use.

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 <clarins.world> be transferred to the Complainant.

*/Clive Duncan Thorne/*

**Clive Duncan Thorne**

Sole Panelist

Date: March 22, 2024