



**(Hong Kong Office)**

**ADMINISTRATIVE PANEL DECISION**

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<b>Case No.</b>	<b>HK-2301791</b>
<b>Complainant:</b>	<b>Huda Beauty Limited</b>
<b>Respondent:</b>	<b>Nishant Gupta</b>
<b>Disputed Domain Name(s):</b>	<b>&lt;hudabeautyfranchise.com&gt;</b>

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**1. The Parties and Contested Domain Name**

The Complainant in this case is Huda Beauty Limited, whose address is 3<sup>rd</sup> Floor, J & C Building, Road Town, 1110 Tortola, British Virgin Islands.

The Respondent is Nishant Gupta, whose address is 807, Jomad Building, Sheikh Zayed Road, Dubai, AE

The domain name at issue is <hudabeautyfranchise.com>, registered by Respondent with HOSTINGER operations, UAB.

**2. Procedural History**

On August 11, 2023, the Huda Beauty Limited (the “Complainant”) submitted a complaint (the “Complaint”) in the English language to the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (the “ADNDRC”) concerning 1 domain name <hudabeautyfranchise.com> and elected this case to be dealt with by a single-member panel.

On August 15, 2023, the Hong Kong office of the ADNDRC notified the Registrar HOSTINGER operations UAB (The “Registrar”) by email, that a Complaint was filed with

the Hong Kong Office of the ADNDRC by the Complainant. The Hong Kong Office asked the Registrar to submit some information, in particular a confirmation of the WHOIS information, in order to proceed to review Complainant's Complaint.

On August 22, 2023, the Hong Kong Office of the ADNDRC resent its notification to the Registrar and received the reply from the Registrar on the same day.

On August 31, 2023, the Hong Kong Office of the ADNDRC confirmed to Complainant receipt of the payment of applicable case filing fee for this Case and informed Complainant of the deficiencies of the Complaint and requested Complainant to rectify the deficiency by changing the name of the Respondent to "Nishant Gupta" according to the WHOIS information provided by the Registrar.

On September 1, 2023, Complainant sent amended Annex items and amended Complaint to the Hong Kong Office of the ADNDRC.

On the same day, the Hong Kong Office of the ADNDRC confirmed to Complainant that the Complaint is in administrative compliance with the Uniform Domain Name Dispute Resolution Policy (The "Policy") and the Rules for ICANN Uniform Domain Name Dispute Resolution Policy (the "Rules").

The same day, the Hong Kong Office of the ADNDRC notified the respondent Nishant Gupta (the "Respondent") that a Complaint against them was submitted by Complainant concerning the registered domain name <hudabeautyfranchise.com>. The deadline for submitting the response was September 21, 2023.

No Response to the Complaint was filed by the Respondent with the ADNDRC Hong Kong Office on or before the prescribed deadline of September 21, 2023 and the Respondent is therefore in default.

On September 26, 2023, the Panelist acting as a sole party, Nathalie Dreyfus, has been appointed by the Hong Kong Office of the ADNDRC in respect to the disputed domain name.

### **3. Factual background**

#### 3.1 For the Complainant

Huda Beauty, one of the world's fastest-growing beauty brands, was founded in 2013 by award-winning beauty blogger Huda Kattan. The Complainant started the brand in Dubai and now operates over 3 000 stores in 45 countries and regions offering an entire range of makeup, skincare and fragrance.

The Complainant registered the HUDABEAUTY trademark in multiple countries and regions, including UAE where Respondent is located, Malaysia, Australia, European Union, Singapore, United Kingdom, Mexico, Morocco, New Zealand, Switzerland, Bahrain, China, United States and Indonesia.

For instance, Complainant owns:

- UAE registered trademark n°261946 of April 18 2017, registered in Class 3
- UAE registered trademark n°261947 of April 18 2017, registered in Class 35

Besides, Complainant registered the domain name <hudabeauty.com> on April 3, 2010 and has been using it as official website since then for HUDABEAUTY business.

Complainant became aware of the disputed domain name <hudabeautyfranchise.com>, registered on October 2, 2022 and filed a Complaint on August 11, 2023, accordingly.

#### 3.2 For the Respondent

No Response to the Complaint was filed with the ADNDRC Hong Kong Office by the Respondent. Therefore, the facts are unchallenged and Respondent is in default.

### **4. Parties' Contentions**

#### A. Complainant

The Complainant's contentions can be resumed as follows:

The Complainant asserts that HUDABEAUTY trademarks long predated the registration of the disputed domain name, which gives Complainant prior trademark rights over

HUDABEAUTY. The Complainant further alleges that the Disputed Domain Name is identical or confusingly similar to the complainant's trademarks, in that the domain name at issue is comprised of the HUDABEAUTY trademark

The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the domain name. In fact, the Complainant has never authorized or permitted the Respondent to use the HUDABEAUTY trademark or use it to register any domain name consisting of the HUDABEAUTY trademark. More, the Complainant shows in annex items that the disputed domain name is resolving to a HUDA Beauty Franchise website which claims to provide franchise opportunity of HUDABEAUTY cosmetics. Therefore, the Complainant believes that the website associated with the disputed domain name is being used by Respondent for phishing and fraud purposes.

The Complainant alleges the Respondent's domain name has been registered in bad faith. In fact, the Complainant provides additional evidences demonstrating the Respondent had actual knowledge of the Complainant and the HUDABEAUTY trademark, as they are both based in Dubai and because the Respondent displays the HUDABEAUTY trademark on its website. Finally, the Complainant asserts that the disputed domain name has been used in bad faith. Indeed, the disputed domain name is resolving to a website providing franchise opportunity of HUDABEAUTY cosmetics. The Respondent is trying to falsely suggest an affiliation with the Complainant and the HUDABEAUTY trademark to confuse Internet users, which demonstrates the Respondent's intentions fraud. More, the Complainant shows that the Respondent's use of the disputed domain name misdirects potential visitors seeking the Complainant's cosmetics products to a survey, where customers of the HUDABEAUTY business will inadvertently provide personal information to the Respondent. Thus, the Complainant suspects these information will be used for phishing purposes and for illegal commercial gain.

#### B. Respondent

No Response to the Complaint was filed with the ADNDRC Hong Kong Office by the Respondent.

## 5. Findings

Paragraph 15(a) of the Rules directs the Panel as to the principles the Panel is to use in determining the dispute: “A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable”.

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

- i. Respondent’s domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. Respondent has no rights or legitimate interests in respect of the domain name; and
- iii. Respondent’s domain name has been registered and is being used in bad faith.

### A) Identical / Confusingly Similar

The Complainant has established that registered HUDABEAUTY trademarks long predated the registration of the disputed domain name. The Panel also accepts the Complainant’s contention that its HUDABEAUTY trademark is well-known.

When assessing whether the Disputed Domain Name is identical and confusingly similar to the Complainant’s trademark, it has been well established the “.com” generic top-level part should not be considered. The mere addition of a generic word such as “franchise” does not prevent the disputed domain name from being confusingly similar to the Complainant’s HUDABEAUTY trademark (*WIPO Case No. D2012-0047, Compagnie Générale des Etablissements Michelin and Michelin Recherche et Technique S.A. v. Eijiobara Obara*, WIPO Case No. D2011-0700, *Merck Sharp & Dohme Corp. v. GlobalCom, Henry Bloom* and WIPO Case No. D2010-0377, *Fluor Corporation v. KMLOLO* –). Therefore, the Panel is of the opinion that the additional generic element “franchise” in the contested domain name can not avoid the confusion between the Complainant’s trademark and the Disputed Domain Name.

On this basis, the Panel finds that the Disputed Domain Name <hudabeautyfranchise.com> is confusingly similar to the Complainant's registered trademarks.

### **B) Rights and Legitimate Interests**

It is well established that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name. Respondent does not own any right on the "hudabeauty" or "hudabeautyfranchise" trademarks, and Complainant has never authorized or permitted the Respondent to use the HUDABEAUTY trademark or use it to register any domain name consisting of the HUDABEAUTY trademark (*See J Barbour & Sons LTD v. Whois Privacy Pty Ltd./Quantec, LLC. Novo Point, LLC, WIPO Case No. D2013-0283*).

More, the disputed domain name is resolving to a Huda Beauty Franchise official website that displays the HUDABEAUTY trademark. It gives the impression that it is the official website of the Complainant for offering franchise opportunity of HUDA BEAUTY cosmetics. Thus, the Panel considers that the website associated with the disputed domain name is being used in the course of phishing and fraudulently soliciting business, which entitles the Panel to infer that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

### **C) Bad Faith**

The Complainant has to establish that the Disputed Domain Name was registered and is being used in bad faith to seek transfer of the Disputed Domain Name.

The Complainant has put forward evidence showing that the Complainant's trademark HUDABEAUTY has become a significant identifier of the Complainant's goods and services, which enjoys a high reputation worldwide, particularly as the Complainant and Respondent are both based in Dubai.

Evidence put forward by the Complainant proves the actual knowledge of the Respondent. Indeed, the Respondent's precisely introduced HUDABEAUTY on the associated website of the disputed domain name. As such, the Panel infers that the Respondent must have sufficiently known about the Complainant's trademark and confirms that the disputed domain name was registered in bad faith (*See Paule Ka v. Paula Korenek, WIPO Case No. D2003-0453*).

Furthermore, Complainant asserts that the disputed domain name was used in order to benefit from the goodwill of the Complainant and the HUDABEAUTY trademark as the disputed domain name is resolving to a website providing alleged franchise opportunity of HUDABEAUTY cosmetics. The panel considers that a likelihood of confusion is presumed, and this confusion will inevitably result in illegal commercial gains, which are constitutive of a use in bad faith (*See Fox Media LLC v. Hasan, Friend's and co, WIPO Case No. D2020-0780*). Moreover, the Respondent's use of the disputed domain name misdirects potential visitors seeking the Complainant's cosmetics products to a survey which falsely associates the survey with the Complainant's franchise business. Such confusion will result in actual or prospective customers of the HUDABEAUTY business to provide personal information to the Respondent. Therefore, the Panel confirms that the use of the domain name, redirecting to a survey requesting personal information from users, is considered a phishing scam used in bad faith (*See The Coca-Cola Company v. Andrew Corr, WIPO Case No. D2012-0368*).

Paragraph 4(b)(iv) of the Policy provides that "by using the domain name, you have intentionally attempted to attract, for commercial gain, internet users to your website or other on-line 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". In the present case, the Panel finds that the Respondent's registration and use of the Disputed Domain Name are in bad faith under Para 4(b)(iv) of the Policy.

The Panel concludes that the Disputed Domain Name has been registered and is being used in bad faith.

## 6. Decision

For all of the foregoing reasons, the Panel decides that the domain name registered by Respondent is confusingly similar to the trademark in which the Complainant has rights, that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name, and that the Respondent's domain name has been registered and is being used in bad faith.

Accordingly, pursuant to Paragraph 4(i) of the Policy, the Panel orders that the registration of the domain name <hudabeautyfranchise.com> be transferred to the Complainant.



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Nathalie Dreyfus  
Panelist

Dated: 04/10/2023