

## **ADMINISTRATIVE PANEL DECISION**

No Ordinary Designer Label Limited t/a Ted Baker v. Client Care, Web Commerce Communications Limited  
Case No. D2023-3115

### **1. The Parties**

The Complainant is No Ordinary Designer Label Limited t/a Ted Baker, United States of America, represented by Authentic Brands Group, United States of America.

The Respondent is Client Care, Web Commerce Communications Limited, Malaysia.

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

The disputed domain name <tedbakeroutletphilippines.com> is registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 19, 2023. On July 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 21, 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 (John Doe) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 24, 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 amendment to the Complaint on July 24, 2023.

The Center verified that the Complaint, together with the amendment to 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 August 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 22, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 23, 2023.

The Center appointed Linda Chang as the sole panelist in this matter on September 4, 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 manufactures apparel, accessories, footwear, homeware and beauty, and has advertised, marketed, distributed and sold such worldwide under its TED BAKER trademark.

The Complainant is the owner of Philippines Trademark TED BAKER Registration No. 10930, registered on July 31, 2014.

The disputed domain name was registered on February 21, 2023. The Panel is unable to access its associated website at the time of drafting this decision as the website warns that "Sorry, you have been blocked". According to the screenshot in the Complainant's Annex 1, the website associated with the disputed domain name is resolving to an online shopping website providing TED BAKER branded products.

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

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

The Complainant claims that the disputed domain name is identical or confusingly similar to its TED BAKER trademark in that the disputed domain name contains the TED BAKER trademark.

The Complainant further claims that the Respondent has no rights or legitimate interests in respect of the disputed domain name as the Respondent has not been licensed, contracted or permitted by the Complainant to use the TED BAKER trademark or to apply for any domain names incorporating the TED BAKER trademark.

The Complainant finally claims that the disputed domain name was registered and is being used in bad faith as the Respondent was well aware of the TED BAKER trademark at the time of registration and is using the disputed domain name in an attempt to attract users and create a likelihood of confusion with the Complainant's trademark.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

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

The Panel finds that the Complainant has established rights in the TED BAKER trademark based on its Philippines registration obtained in July 2014.

The generic Top-Level Domain ("gTLD") ".com" does not function to differentiate a domain name in the confusing similarity test.

The second-level part "tedbakeroutletphilippines" fully duplicates the TED BAKER trademark of the Complainant but just with extra terms including "outlet" and "philippines". "outlet" is commonly referring to a store where goods are sold at a discounted price, while "philippines" is a known country name. The Panel

determines that addition of the two terms cannot avoid a finding of confusing similarity as the Complainant's TED BAKER trademark is clearly recognizable within the disputed domain name.

The Panel therefore finds that the Complainant has established the first element of the Policy in accordance with paragraph 4(a)(i).

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

Based on the evidence presented on record, including the Complainant's non-authorization confirmation, the Panel determines that the Complainant has made out a *prima facie* case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. The burden of production on this element then shifts to the Respondent, but the Respondent had chosen not to defend.

The disputed domain name is resolving to a website of online shop operating under brand name of TED BAKER and providing purported TED BAKER branded products. By registering a domain name incorporating the TED BAKER trademark and dominantly displaying such trademark on the website, the Respondent is attempting to impersonate the Complainant and divert traffic to its own website. The Panel determines that the Respondent's use of the disputed domain name can in no way amount to a *bona fide* offering of goods or services, or a legitimate noncommercial or fair use of the disputed domain name.

The Panel therefore finds that the Complainant has established the second element of the Policy in accordance with paragraph 4(a)(ii).

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

The Complainant has been using the TED BAKER trademark for years and obtained trademark registration of TED BAKER in Philippines as early as in 2014, which significantly predates the registration of the disputed domain name.

The Panel holds that the Respondent must have been well aware of the Complainant at the time of registration but deliberately chose the TED BAKER trademark to register the disputed domain name. By displaying the TED BAKER trademark on the website, the Respondent is attempting to pass off the disputed domain name as the Complainant's official online outlet shop and cause confusion among Internet visitors. The Respondent is intentionally attempting to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with the TED BAKER trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. Bad faith can be inferred from the Respondent's registration and use of the disputed domain name.

The Panel therefore finds that the Complainant has established the third element of the Policy in accordance with paragraph 4(a)(iii).

## **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 <tedbakeroutletphilippines.com> be transferred to the Complainant.

/Linda Chang/

**Linda Chang**

Sole Panelist

Date: September 18, 2023