

ADMINISTRATIVE PANEL DECISION

Hunza G Limited v. Client Care, Web Commerce Communications Limited
Case No. D2023-4154

1. The Parties

The Complainant is Hunza G Limited, United Kingdom, represented by Briffa Legal Limited, United Kingdom.

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

2. The Domain Names and Registrar

The disputed domain names <hunzagaaustralia.com>, <hunzagcanada.com>, <hunzagdanmark.com>, <hunzagespana.com>, <hunzagfrance.com>, <hunzaghrvatska.com>, <hunzagitalia.com>, <hunzagnorge.com>, <hunzagpolska.com>, <hunzagportugal.com>, <hunzagsverige.com>, and <hunzagusa.com> are 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 October 5, 2023. On October 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On October 7, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Not Known) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 10, 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 October 12, 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 October 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 8, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 13, 2023..

The Center appointed Andrew F. Christie as the sole panelist in this matter on November 21, 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 was incorporated on May 4, 2018, to carry on the business of designing and selling swimwear and clothing under the HUNZA and HUNZA G trademarks, which have been in use since 1984 in connection with swimwear and clothing by entities in the Complainant's group of companies. The Complainant's products are sold in top retail stores in the world, including Harrods, Selfridges, Net-a-Porter, and SaksFifthAvenue. In its publicly filed accounts for 2022, the Complainant shows a profit of over GBP 7 million. The Complainant has a substantial online presence with 438,000 Instagram followers.

The Complainant is the owner of several trademark registrations for the word trademarks HUNZA and HUNZA G in various jurisdictions, including United Kingdom Trademark Registration No. UK00003100102 (filed on March 19, 2015, and entered into the register on June 12, 2015) for the word trademark HUNZA, and European Union Trademark Registration No. 017896483 (filed on May 8, 2018, and registered on September 6, 2018) for the word trademark HUNZA G. The principal domain name used by the Complainant is <hunzag.com>.

The disputed domain names <hunzagaaustralia.com>, <hunzagcanada.com>, and <hunzagusa.com> were registered on June 29, 2023, and the disputed domain names <hunzagespana.com>, <hunzagfrance.com>, <hunzagitalia.com>, <hunzaghrvatska.com>, <hunzagdanmark.com>, <hunzagnorge.com>, <hunzagportugal.com>, <hunzagpolska.com>, and <hunzagsverige.com> were registered on June 30, 2023. The Complainant has provided undated screenshots of the websites resolving from each of the disputed domain names, showing that they display the phrase "Hunza G London" at the top of the front page, and that they purport to offer clothing and swimwear that originates from the Complainant. At the time of this decision, each of the disputed domain names resolves to a website that is very similar in appearance to those in the screenshots.

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 names.

The Complainant made the following contentions, among others, to establish that the disputed domain names are confusingly similar to a trademark in which the Complainant has rights. The disputed domain names are similar to the Complainant's HUNZA G trademark visually, aurally, and conceptually, save for the addition of the geographical reference at the end of each of the disputed domain names. It is well established that adding a descriptive or generic word to a distinctive trademark in which the Complainant has rights does not alter the fact that the disputed domain names are confusingly similar to the trademark. The generic Top-Level Domain ("gTLD") ".com" is a standard requirement.

The Complainant made the following contentions, among others, to establish that the Respondent has no rights or legitimate interests in respect of the disputed domain names. The Respondent's only interest in the disputed domain names is to use them to divert traffic away from the Complainant, and for illegal activities such as phishing. The websites resolving from the disputed domain names purport to offer goods that originate from the Complainant although the Complainant has not authorised the Respondent to use the HUNZA G trademark, and the Respondent has never been an authorised seller of the Complainant's goods. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain names, without intent for commercial gain to misleadingly divert consumers and/or to tarnish the trademarks at issue.

The Complainant made the following contentions, among others, to establish that the disputed domain names were registered and are being used in bad faith. The disputed domain names were registered primarily for the purpose of diverting potential customers of the Complainant to the Respondent's websites, and hence to disrupt the business of the Complainant. The Respondent had the Complainant's trademark in mind when registering the disputed domain names, as shown by the Respondent's unauthorised use of the Complainant's logo. The disputed domain names point to websites that are visually similar to the Complainant's own website, and which purport to offer goods that are identical to those offered by the Complainant under its trademark. The Respondent is using the disputed domain names intentionally to attract, for commercial gain, Internet users to its websites by creating a likelihood of confusion with the trademark as to the source, affiliation or endorsement of the websites. It is a reasonable assumption that the disputed domain names generate revenue from the sale of counterfeit goods and the collection of consumer details.

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.

Once the gTLD ".com" is ignored (which is appropriate in this case), each of the disputed domain names consists of the Complainant's registered word trademark HUNZA G together with a geographical term. The Complainant's trademark is clearly recognizable within each of the disputed domain names. None of the added geographical terms avoid a finding of confusing similarity of the disputed domain names with the Complainant's trademark. Accordingly, the Panel finds that the disputed domain names are confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Respondent is not a licensee of the Complainant, is not otherwise affiliated with the Complainant, and has not been authorized by the Complainant to use its HUNZA G trademark. The Respondent has not provided any evidence that it has been commonly known by, or has made a *bona fide* use of, the disputed domain names, or that it has, for any other reason, rights or legitimate interests in the disputed domain names.

The evidence provided by the Complainant shows that the disputed domain names have been used to resolve to webpages displaying the Complainant's trademark, and purporting to offer for sale the Complainant's swimwear products. Given the confusing similarity of the disputed domain names to the Complainant's trademark, the use of the Complainant's trademark on the webpages resolving from the disputed domain names, the absence of any relationship between the Respondent and the Complainant, the fact that the webpages resolving from the disputed domain names do not contain any clarifying statement as to the relationship (lack thereof) with the Complainant, and the risk of implied false affiliation with the Complainant, the Respondent's use of the disputed domain names is neither a *bona fide* use nor a legitimate noncommercial or fair use.

The Complainant has put forward a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names, and the Respondent has not rebutted this. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain names.

C. Registered and Used in Bad Faith

The disputed domain names were registered several years after the Complainant first used and registered its HUNZA G trademark. It is inconceivable that the Respondent registered the disputed domain names ignorant of the existence of the Complainant's trademark, given that each of them consists of the Complainant's trademark with the mere addition of a geographical term, and that the Respondent has used each of the disputed domain names to resolve to a website displaying the Complainant's trademark and purporting to offer for sale the Complainant's swimwear goods. Given the Respondent's lack of rights or legitimate interests in the disputed domain names and the confusing similarity of the disputed domain names to the Complainant's trademark, any use of the disputed domain names by the Respondent almost certainly implies an affiliation with the Complainant that does not exist. The Respondent's registration of the disputed domain names in these circumstances is a bad faith registration.

Furthermore, the evidence on the record provided by the Complainant indicates that the Respondent has used each of the disputed domain names in an attempt to attract, apparently for commercial gain, Internet users to a website by creating confusion in the minds of the public as to an association between the website and the Complainant. The Respondent's use of the disputed domain names in this manner is a bad faith use.

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 names, <hunzagaaustralia.com>, <hunzagcanada.com>, <hunzagdanmark.com>, <hunzagespana.com>, <hunzagfrance.com>, <hunzaghrvatska.com>, <hunzagitalia.com>, <hunzagnorge.com>, <hunzagpolska.com>, <hunzagportugal.com>, <hunzagsverige.com>, and <hunzagusa.com>, be transferred to the Complainant.

/Andrew F. Christie/

Andrew F. Christie

Sole Panelist

Date: December 5, 2023