

ARBITRATION AND MEDIATION CENTER

ADMINISTRATIVE PANEL DECISION

Paco Nominees Pty Ltd, Geedup Online Pty Ltd v. muhammad ibrar, Ebeguowen OTASOWIE, javeria Latif, Humayun Usman, M Iqrar, Muzamil Ali, Usman Haider, Stylish boy Case No. D2024-0960

1. The Parties

The Complainants are Paco Nominees Pty Ltd and Geedup Online Pty Ltd, Australia, represented by Cooper Mills Lawyers, Australia.

The Respondents are Ebeguowen OTASOWIE, javeria Latif, United Kingdom; muhammad ibrar, Humayun Usman, M Igrar, Muzamil Ali, Usman Haider, Stylish boy, Pakistan.

2. The Domain Names and Registrars

The disputed domain names <geedupau.com> and <geedupclothings.store> are registered with Hostinger Operations, UAB.

The disputed domain names <geedupaustralia.com>, <geedupclothing.net>, <geedupclothing.org>, <geedupclothing.shop>, <geeduphoodie.com>, <geeduphoodie.net>, <geeduphoodie.shop>, <geeduphoodie.store>, <geedup.ltc>, <geedupnz.com>, <geedup.shop> and <geedup.store> are registered with NameCheap, Inc.

Hostinger Operations, UAB and NameCheap, Inc are hereinafter collectively referred to as the "Registrars".

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 4, 2024. On March 5, 2024, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On March 5, 2024, and March 6, 2024, the Registrars transmitted by email to the Center their verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondents (Withheld for Privacy ehf and Privacy Protect, LLC) and contact information in the Complaint.

The Center sent an email communication to the Complainants on March 14, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainants to either file separate complaints for the disputed domain names associated with different

underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainants filed an amended Complaint on March 19, 2024.

The Center verified that the Complaint together with the 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 Respondents of the Complaint, and the proceedings commenced on March 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 14, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on April 15, 2024.

The Center appointed Luca Barbero as the sole panelist in this matter on April 18, 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.

On May 2, 2024, the Center sent an email communication to the Parties indicating that the due date for decision was extended to May 9, 2024.

4. Factual Background

The Complainants own and operate the GEEDUP streetwear brand, which was established in Western Sydney, Australia, in 2010.

The Complainant Paco Nominees Pty Ltd (hereinafter, the "First Complainant"), is the owner of all intellectual property rights, including all trademarks, relating to GEEDUP worldwide.

The Complainant Geedup Online Pty Ltd (hereinafter, the "Second Complainant") is a wholly owned subsidiary of the First Complainant; an authorized user of the First Complainant's intellectual property rights, including all trademarks, relating to the GEEDUP label; and operates the retail business of the GEEDUP label, including the official website and online store at "www.geedupclothing.com", based on the domain name <geedupclothing.com>, registered on October 28, 2011.

The GEEDUP brand has undergone significant growth to become an iconic and well-known streetwear brand with a global reach. It has built a substantial and highly loyal customer base across Australia, New Zealand, North America and the United Kingdom. In 2023, the Complainants established offices in London, in United Kingdom and Los Angeles, in the United States of America ("United States") to further support the label's international expansion.

All the Complainants' products are sold by way of one-off, limited-edition releases that are offered for sale at specific times ("drops") exclusively via the Complainants' official website "www.geedupclothing.com". The Complainants typically have around 12 drops per year.

The First Complainant is the owner, amongst others, of the following trademark registrations for GEEDUP, as per trademark registration certificates submitted as annex 14 to the Complaint:

- United Stated trademark registration No. 7238568 for GEEDUP (word mark), filed on July 15, 2022, and registered on December 12, 2023, in international classes 14, 18, 24, 25, 28, 32, 33 and 35;
- United Stated trademark registration No. 7238566 for GEEDUP (semi-figurative mark), filed on July 15, 2022, and registered on December 12, 2023, in international classes 14, 18, 24, 25, 28, 32, 33 and 35;

- International trademark registration No. 1695568A for GEEDUP (word mark), registered on July 15, 2022, in classes 14, 18, 24, 25, 28 and 35, designating amongst others, the United Kingdom;
- International trademark registration No. 1695416A for GEEDUP. (semi-figurative mark), registered on July 15, 2022, in classes 14, 18, 24, 25, 28 and 35, designating amongst others, the United Kingdom;
- New Zealand trademark registration No. 1208201 for GEEDUP (word mark), filed on April 19, 2022 and registered on October 20, 2022 in classes 14, 18, 24, 28, 32, 33 and 35.

The disputed domain names <geedup.shop>, <geedup.store>, <geedupclothing.org>, <geedupclothing.shop>, <geeduphoodie.com>, <geedupaustralia.com>, <geedupclothing.net>, <geeduphoodie.net>, <geeduphoodie.shop>, <geeduphoodie.store>, <geedup.llc>, <geedup.ltd>, <geedupnz.com>, <geedupau.com> and <geedupclothings.store> were registered between October 30, 2023 and February 1, 2024.

On January 11, 2024, the First Complainant filed a complaint with the Forum under the Uniform Rapid Suspension System ("URS") in relation to the disputed domain names <geedup.ltd>, <geedup.shop>, <geedup.store> and <geedupclothing.shop> ("the URS Complaint"). On February 6, 2024, the URS Complaint was determined in favor of the First Complainant with an order that the four disputed domain names be suspended for the duration of their registration period.

The disputed domain names <geedup.ltd>, <geedup.shop>, <geedup.store> and <geedupclothing.shop> currently resolve to webpages where it is stated that they were taken down as a result of dispute resolution proceedings pursuant to the URS.

The disputed domain names <geedupau.com>, <geedupaustralia.com>, <geedupclothing.net>, <geedupclothing.org>, <geedupclothings.store>, <geeduphoodie.com>, <geeduphoodie.net>, <geeduphoodie.store>, <g

Based on the screenshots submitted by the Complainants – which have not been challenged by the Respondents – all the disputed domain names, other than <geedupclothing.net> and <geeduphoodie.net>, previously resolved to websites publishing the GEEDUP figurative marks and images of GEEDUP products taken from the Complainants' official website and social media pages, where purported GEEDUP products were advertised and offered for sale, without providing any disclaimer of non-affiliation with the Complainants. The disputed domain names <geedupclothing.net> and <geeduphoodie.net> instead, resolved to landing pages displaying clothing-related advertising pay-per-click ("PPC") links.

5. Parties' Contentions

A. Complainants

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainants contend that by virtue of their trademark registrations, they have rights in the GEEDUP mark.

The Complainants contend that the disputed domain names <geedup.llc>, <geedup.ltd>, <geedup.shop> and <geedup.store> are identical to the GEEDUP mark whilst the disputed domain names <geedupclothing.net>, <geedupclothing.org>, <geedupclothing.shop>, <geedupclothings.store>, <geeduphoodie.com>, <geeduphoodie.net>, <geeduphoodie.shop>, <geeduphoodie.store>, <geedupaustralia.com>, <geedupau.com> and <geedupnz.com> are confusingly similar to the

Complainant's GEEDUP mark, as they reproduce the GEEDUP mark in its entirety with the mere addition of descriptive or geographical terms.

With reference to rights or legitimate interests in respect of the disputed domain names, the Complainants state that the Respondents have in no way been consented or granted any license to use the GEEDUP marks or register the disputed domain names and the Respondents are in no way affiliated or associated with the Complainants in any way. The Complainants also assert that the Respondents are not commonly known by the disputed domain names and that they are not aware of the Respondents holding any registered trademarks that correspond to the disputed domain names.

Moreover, the Complainants contend that the Respondents have not used the disputed domain names in connection with a bona fide offering of goods or services since the Respondents' websites prominently displayed the GEEDUP marks and images copied from the Complainants' official website and social media accounts, without identifying the Respondents or disclaiming any relationship with the Complainants, and the Respondents registered a large number of domain names corresponding to the Complainants' GEEDUP marks with the intent to corner the market and deprive the Complainants from reflecting their trademarks in corresponding domain names.

With reference to the circumstances evidencing bad faith, the Complainants indicate that considering the Respondents i) registered a large number of domain names identical or confusingly similar to the GEDDUP marks; ii) concealed their identity through the use of privacy/proxy registration services; iii) used all but two of the disputed domain names to resolve to websites that reproduced the Complainants' marks and product images, with the intent of impersonating the Complainants' official website, whilst infringing the First Complainant's intellectual property rights and iv) registered the <geedupclothing.net> and <geeduphoodie.net> after the filing date of the URS Complaint and used them to resolve to parking pages displaying clothing-related advertising PPC links, the Respondents must have not only been well aware of the Complainants at the time of registering the disputed domain names, but deliberately chose to register the disputed domain names in bad faith to prevent the Complainants from reflecting their trademarks in corresponding domain names, whilst engaging in a pattern of such conduct in order to disrupt the Complainants' business and attract Internet users for commercial gain by creating a likelihood of confusion with the GEEDUP marks as to the source, sponsorship, affiliation and endorsement of the Respondents' websites and of the products offered for sale therein.

B. Respondents

The Respondents did not reply to the Complainants' contentions.

6. Discussion and Findings

6.1. Consolidation of Multiple Complainants

Paragraph 10(e) of the UDRP Rules grants a panel the power to consolidate multiple domain name disputes. At the same time, paragraph 3(c) of the UDRP Rules provides that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder.

Multiple complainants may bring a consolidated complaint against a single respondent if: (i) the complainants either have a specific common grievance against the respondent, or the respondent has engaged in common conduct that affected the complainants' individual rights in a similar fashion; and (ii) it would be equitable and procedurally efficient (see section 4.11.1 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0").

The Panel finds that the First and the Second Complainants, which are parent company and wholly owned subsidiary, respectively, have a common grievance against the Respondents, since they both have a common interest in the GEEDUP mark and the disputed domain names reproduce the First Complainant's

GEEDUP mark and the core of the Second Complainant's company name. Moreover, the Complainants have been the target of common conduct by the Respondents, which have used thirteen of the disputed domain names in connection with websites publishing the GEEDUP mark and images taken from the Complainants' official website and offering for sale purported GEEDUP products.

The Panel also finds that it would be equitable and procedurally efficient to proceed to a single decision.

6.2. Consolidation of Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainants allege that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainants request the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainants' request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainants' request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview 3.0, section 4.11.2.

As regards common control, the Panel finds that, although registered in the name of different entities, the disputed domain names are under common control since, as submitted by the Complainants:

- (a) except for <geedupclothings.store> and <geedupau.com>, the disputed domain names were registered via the same registrar and around the same time, between late 2023 and early 2024;
- (b) the disputed domain names <geedupclothings.store> and <geedupau.com> were registered via the same registrar and around one week apart;
- (c) the disputed domain names utilize the same two privacy registration services;
- (d) except for <geedupclothing.net> and <geeduphoodie.net>, all of the disputed domain names resolved to the same or very similar websites with shared or very similar content (including shared contact details and typographical errors such as the GEEDUP mark misspelled as "Gueedup");
- (e) the disputed domain names <geedupclothing.net> and <geeduphoodie.net> resolved to the same registrar parking pages displaying clothing-related PPC links;
- (f) according to the registrar-provided registrant details, the disputed domain names <geedupclothing.net> and <geeduphoodie.net> are registered in the name of the same registrant of <geedup.llc>, and the registrants for all of the disputed domain names, but for <geedup.ltd> and <geedupaustralia.com>, are located in Punjab, Pakistan;
- (g) the registrar-provided registrant details include apparently incomplete or incorrect contact information;
- (h) all of the disputed domain names follow the same naming format, using GEEDUP in its entirety or with the addition of the descriptive word "hoodie" or "clothing", or with the addition of a geographical indicator.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondents") in a single proceeding.

6.3. Substantive Issues

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 names. WIPO Overview 3.0, section 1.7.

The Complainants have shown rights in respect of a trademark or service mark for the purposes of the Policy. <u>WIPO Overview 3.0</u>, section 1.2.1. Indeed, the Complainants have provided evidence of ownership of valid trademark registrations for GEEDUP, registered in the name of the First Complainant.

The entirety of the mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are identical or confusingly similar to the mark for the purposes of the Policy. <u>WIPO Overview 3.0</u>, section 1.7.

Although the addition of the terms "clothing", "clothings" and "hoodie" and of the geographical indicators "australia", "au" (abbreviation of "Australia") and "nz" (abbreviation of "New Zealand") may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. WIPO Overview 3.0, section 1.8.

In addition, the Top-Level Domains ".com", ".net", ".org", ".ltd". ".shop" and ".store" can be disregarded under the first element confusing similarity test, being standard registration requirements. <u>WIPO Overview</u> 3.0, section 1.11.1.

Therefore, 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 Complainants have established a prima facie case that the Respondents lack rights or legitimate interests in the disputed domain names. The Respondents have not rebutted the Complainants' prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

The Panel notes that there is no relation, disclosed to the Panel or otherwise apparent from the record, between the Respondents and the Complainants. The Respondents are not licensees of the Complainants, nor have the Respondents otherwise obtained an authorization to use the Complainants' trademarks.

Moreover, there is no element from which the Panel could infer a Respondents' right over the disputed domain names, or that the Respondents might be commonly known by the disputed domain names. The Panel further finds that the Respondents are not using the disputed domain names in connection with a bona fide offering of goods or services or a legitimate non-commercial or fair use without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainants' mark.

As mentioned above, the disputed domain names currently do not resolve to active websites. However, based on the screenshots submitted by the Complainants – which have not contested by the Respondents – all of the disputed domain names other than <geedupclothing.net> and <geeduphoodie.net>, previously resolved to websites publishing the GEEDUP figurative marks and images taken from the Complainants' official website and social media pages, where purported GEEDUP products were offered for sale, without providing any disclaimer of non-affiliation with the Complainants.

According to paragraph 2.8.1 of the <u>WIPO Overview 3.0</u>, "resellers, distributors, or service providers using a domain name containing the complainant's trademark to undertake sales or repairs related to the complainant's goods or services may be making a bona fide offering of goods and services and thus have a legitimate interest in such domain name. Outlined in the "Oki Data test", the following cumulative requirements will be applied in the specific conditions of a UDRP case:

- (i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the site to sell only the trademarked goods or services;
- (iii) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and
- (iv) the respondent must not try to 'corner the market' in domain names that reflect the trademark".

In view of the above-described use of the thirteen disputed domain names <geedupau.com>, <geedupaustralia.com>, <geedupclothing.org>, <geedupclothing.shop>, <geedupclothings.store>, <geedupclothings.store>, <geeduphoodie.net>, <geeduphoodie.shop>, <geeduphoodie.store>, <geedup.llc>, <geedup.ltd>, <geedup.ltd, <geedup.ltd, <geedup.ltd, <geedup.ltd, <g

The disputed domain names <geedupclothing.net> and <geeduphoodie.net> instead, resolved to landing pages displaying clothing-related advertising PPC links. The Panel finds that such use of the disputed domain names does not amount to a bona fide offering of goods or services or a legitimate noncommercial or fair use. Prior panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users. WIPO Overview, section 2.9.

In addition, the disputed domain names, incorporating the GEEDUP mark in combination with the descriptive terms "clothing/s" and "hoodie" or the geographic terms "Australia", "au" and "nz" (acronyms for "Australia" and "New Zealand"), suggest sponsorship or endorsement by the Complainants. Even where a domain name consists of a trademark plus additional terms, UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. WIPO overview 3.0, section 2.5.1.

Therefore, 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, in light of the prior registration and use of the GEEDUP mark in connection with the Complainants' online sale of clothing and accessories, promoted and sold via the Complainants' official website at "www.geedupclothing.com", the Respondents were or could have been aware of the Complainants and the GEEDUP mark at the time of registration of the disputed domain names.

Moreover, considering the distinctiveness of the GEEDUP mark, the composition of the disputed domain names and the prior redirection of thirteen of the disputed domain names to websites publishing the GEEDUP marks and images of GEEDUP products taken from the Complainants' official website and social media pages, the Panel finds that the Respondents were indeed well aware of the Complainants, and registered the disputed domain names to target the Complainants and their GEEDUP mark.

Furthermore, two of the disputed domain names, <geedupclothing.net> and <geeduphoodie.net>, were registered by the Respondents on January 20, 2024, after the commencement of the URS proceeding initiated with the Forum by the First Complainant against the disputed domain names <geedup.ltd>, <geedup.shop>, <geedup.store> and <geedupclothing.shop>. In the Panel's view, this circumstance shows that the Respondents were clearly well aware of the First Complainant's trademark rights in the GEEDUP mark when they registered the additional disputed domain names <geedupclothing.net> and <geeduphoodie.net>.

As indicated above, all of the disputed domain names, but for <geedupclothing.net> and <geeduphoodie.net>, were previously pointed to active websites featuring the GEEDUP marks and images copied from the Complainants' official website and social media accounts, where purported GEEDUP products were offered for sale without displaying any disclaimer of non-affiliation with the Complainants. The disputed domain names <geedupclothing.net> and <geeduphoodie.net> were, instead, pointed to parking pages with sponsored PPC links related to clothing, which is the Complainants' core business.

In view of the above-described use of the disputed domain names, the Panel finds that the Respondents intentionally attempted to attract Internet users to their websites, for commercial gain, by creating a likelihood of confusion with the Complainants' trademark as to the source, sponsorship, affiliation or endorsement of their websites according to paragraph 4(b)(iv) of the Policy.

At the time of the drafting of this Decision, all the disputed domain names do not resolve to active websites. The disputed domain names <geedup.ltd>, <geedup.shop>, <geedup.store> and <geedupclothing.shop> resolve to webpages where it is stated that they have been taken down as a result of dispute resolution proceedings pursuant to the URS.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available records, the Panel finds the non-use of the disputed domain names 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 of the Complainants' mark, the failure of the Respondents to submit a response, the composition of the disputed domain names and their prior use made by the Respondents and finds that in the circumstances of this case the current passive holding of the disputed domain names does not prevent a finding of bad faith use under the Policy.

The Panel finds paragraph 4(b)(ii) of the Policy also applicable in this case as the Respondents have registered the disputed domain names to prevent the Complainants from reflecting the GEEDUP mark in corresponding domain names and have engaged in a pattern of such conduct since they registered at least fifteen domain names incorporating such mark. As indicated in Section 3.1.2 of the WIPO Overview 3.0, "UDRP panels have held that establishing a pattern of bad faith conduct requires more than one, but as few as two instances of abusive domain name registration. This may include a scenario where a respondent, on separate occasions, has registered trademark-abusive domain names, even where directed at the same brand owner".

Therefore, the Panel finds that the Complainant has also 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 names <geedupau.com>, <geedupaustralia.com>, <geedupclothing.net>, <geedupclothing.store>, <geeduphoodie.com>, <geeduphoodie.net>, <geeduphoodie.shop>, <geeduphoodie.store>, <geedup.llc>, <geedup.ltd>, <geedupn.ltd>, <geedupn.l

/Luca Barbero/ Luca Barbero Sole Panelist

Date: May 9, 2024