

ADMINISTRATIVE PANEL DECISION

Liewood A/S v. Hui Ma
Case No. D2022-3296

1. The Parties

The Complainant is Liewood A/S, Denmark, represented by Bech-Bruun Law Firm, Denmark.

The Respondent is Hui Ma, China.

2. The Domain Name and Registrar

The disputed domain name <liewood-store.com> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 5, 2022. On September 5, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 8, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 September 12, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 2, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 3, 2022.

The Center appointed Colin T. O’Brien as the sole panelist in this matter on October 7, 2022. 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 Danish design company founded in the summer of 2015 by Anne Marie Lie Norvig. The Complainant is an international children's lifestyle brand and has created a wide range of original and recognizable products for children.

The Complainant sells its products in around 50 countries worldwide including in Europe, the Middle East, and Asia.

The Complainant is the owner of the European Union Trade Mark registration for LIEWOOD, Reg. No. 015491186, registered on January 31, 2018 for:

Bags; Nappy bags; Duffel bags; Bags for sports; Shopping bags in Class 18;

Bed bumpers; Baby changing mats; Cradles; Mats for infant playpens; Playpens for babies in Class 20;

Textiles and textile goods, not included in other classes; Bed linen and table linen; Coverlets; Duvets and quilts; handtowels (other than clothes); Bed clothes and blankets; Sheets; Pillowcases; Loose covers for furniture; Curtains of textile or plastic; Face towels of textile; Mattress slips; Pillowcases; Shower curtains of textile or plastic; Table cloths, not of paper; Place mats, not of paper; Table napkins, not of paper; Table runners; Towels [of textile] in Class 24;

Clothing, Footwear and headgear; Bathrobes; Bath sandals; Bath slippers; Bibs, not of paper; Pajamas; Slippers; Socks in Class 25.

The Complainant is also the owner of International Registration No. 1652598 LIEWOOD, registered on December 2, 2021, designating multiple jurisdictions including the United Kingdom, Australia, India, Norway, and the United States of America ("US").

The Complainant's domain name <liewood.com> was registered on July 14, 2015.

The disputed domain name <liewood-store.com> was registered on July 8, 2022. The disputed domain name resolves to a website that is allegedly selling products identical to those offered by the Complainant and bearing its trademarks.

5. Parties' Contentions

A. Complainant

The Complainant's company name and trademark LIEWOOD is well known in relation to children's products. The disputed domain name is currently being used to promote a webshop selling children's products under the LIEWOOD trademark.

The disputed domain name is confusingly similar with the Complainant's well-known LIEWOOD trademark because LIEWOOD has a high degree of distinctiveness and is well known in many countries due to widespread international use and promotion. The disputed domain name wholly incorporates the Complainant's trademark LIEWOOD, merely combining it with the non-distinctive term "-store" and the generic Top-Level Domain ("gTLD") suffix ".com".

The Complainant's registration and use of its LIEWOOD trademark predates the Respondent's registration of the disputed domain name by several years. The Respondent is not an official manufacturer, distributor, or retailer of LIEWOOD products, nor is the Respondent in any way related to the Complainant and the Complainant has not authorized the use of its company name and trademark in any way.

The Complainant has not found any evidence indicating that the Respondent is an owner of any trademark

similar to the disputed domain name. Considering that the term "LIEWOOD" is a distinctive and arbitrary term for the relevant goods and services, the Respondent's registration of the disputed domain name cannot be a coincidence. This is further substantiated by the fact that the Respondent is using the Complainant's product images on the website under the disputed domain name and the Complainant's product names.

The Complainant doubts if there are products genuinely sold on the website and considers it more likely that the website is used for phishing or similar activities, or is used to sell counterfeit goods, considering the lack of information on the company behind the webshop. A US address is provided, however, according to Google Maps the address does not exist.

The Respondent is using the Complainant's product images, which in itself is a copyright infringement, but also shows that the Respondent does not show photos or images of products taken by themselves. However even if the products are genuinely offered, the Respondent's reasons for the registration of the disputed domain name must be considered to be use of the disputed domain name for attracting Internet users to the website for commercial gain by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation or endorsement of the website under the disputed domain name and by profiting on and taking advantage of the reputation of the Complainant's well-known trademark to attract Internet users and potential customers to the website under the disputed domain name, which does not sell products authorized by the Complainant when the Internet users are searching for the Complainant.

In the case at issue the relevant public will be led to believe that the website is owned by or related to the Complainant, especially since it is not possible to understand the relationship between the Complainant and the Respondent from the website. Such association by the public between the Respondent's website and the Complainant will undoubtedly be detrimental to the Complainant's reputation and the Complainant's trademarks and unlawfully impersonates or suggests sponsorship or endorsement by the Complainant.

The Complainant suspects, but has not been able to verify, that the webshop under the disputed domain name is used for phishing or similar purposes, since the website does not mention any company, the website does not refer to a business email address and the address given does not exist (when looking it up on Google Maps), which is unusual for a legitimate business.

The Complainant submits that the Respondent has no rights or legitimate interests with regards to the disputed domain name and that the disputed domain name has been registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated it owns registered trademark rights in the LIEWOOD trademark throughout the world. The addition of the term "-store" does not prevent a finding of confusing similarity as the Complainant's LIEWOOD mark is clearly recognizable in the disputed domain name. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

Accordingly, the disputed domain name is confusingly similar to a mark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has presented a *prima facie* case that the Respondent has no rights or legitimate interests

in respect of the disputed domain name and has not been commonly known by the disputed domain name. The fact that the Respondent obtained the disputed domain name years after the Complainant had begun using its fanciful and well-known LIEWOOD mark indicates the Respondent sought to piggyback on the Complainant for illegitimate reasons. The evidence provided by the Complainant shows that the disputed domain name resolves to an active website seemingly impersonating the Complainant by featuring the Complainant's trademark, logo, and copyrighted images of the Complainant's trademarked goods. While resellers and distributors may have limited rights to use a complainant's trademark for nominative purposes, the lack of any authorization by the Complainant and similarly, the lack of any information on the website at the disputed domain name as to the website's lack of authorization or relation to the Complainant, renders any fair use safe haven inapplicable in this instance. See section 2.8 of the [WIPO Overview 3.0](#).

Irrespective of the disputed domain name satisfying the so-called *Oki Data* test, the nature of the disputed domain name in relation to the Complainant's trademark carries a risk of implied affiliation, especially when considering the impersonating nature of the content exhibited at the disputed domain name, and as such cannot constitute fair use. See section 2.5.1 of the [WIPO Overview 3.0](#).

After a complainant has made a *prima facie* case, the burden of production shifts to a respondent to present evidence demonstrating rights or legitimate interests in the domain name. See [WIPO Overview 3.0](#), section 2.1.

Here, the Respondent has provided no evidence of any rights or legitimate interests in the disputed domain name.

In the absence of any evidence rebutting the Complainant's *prima facie* case indicating the Respondent's lack of rights or legitimate interests in respect of the disputed domain name, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that the Complainant has satisfied its burden of proof in establishing the Respondent's bad faith in registration and use of the disputed domain name. Paragraph 4(b)(iv) of the Policy states that evidence of bad faith may include a respondent's use of a domain name to intentionally attempt to attract Internet users, for commercial gain.

Due to the uniqueness of the LIEWOOD mark and its goods, it is inconceivable that the Respondent registered the disputed domain name incorporating the Complainant's mark with the term "-store" without knowledge of the Complainant. The disputed domain name is used for a website that is allegedly selling products identical to those offered by the Complainant and bearing its trademarks, but the Complainant has established that the Respondent's use is not authorized, nor is affiliated with the Complainant in any way. The facts establish a deliberate effort by the Respondent to cause confusion with the Complainant for commercial gain. Such impersonation of the Complainant is sufficient to establish the Respondent's bad faith (see section 3.1.4 of the [WIPO Overview 3.0](#)). Under these circumstances, the Panel finds no plausible good faith reason for the Respondent's conduct and concludes that the disputed domain name was registered and used in bad faith.

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 <liewood-store.com> be transferred to the Complainant.

/Colin T. O'Brien/

Colin T. O'Brien

Sole Panelist

Date: October 21, 2022