

ADMINISTRATIVE PANEL DECISION

Baccarat SA v. Shfde Rvdo and Qiongyan Wu
Case No. D2022-4006

1. The Parties

The Complainant is Baccarat SA, France, represented by MEYER & Partenaires, France.

The Respondents are Shfde Rvdo, Hong Kong, China, and Qiongyan Wu, China.

2. The Domain Names and Registrars

The disputed domain name <baccaratcrystal.store> is registered with Porkbun LLC, and the disputed domain name <salebaccarat.com> is registered with Name.com, Inc. (collectively the “Registrars”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 26, 2022. On October 26, 2022, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On October 26 and 27, 2022, the Registrar transmitted by email to the Center their verification responses respectively disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Whois Privacy, Private by Design, LLC and Whois Agent, Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 27, 2022, providing the registrant and contact information for multiple underlying registrants disclosed by the Registrars, and inviting the Complainant to either amend the Complaint adding the Registrar-disclosed registrants as formal Respondents and provide relevant arguments or evidence demonstrating that all named Respondents are, in fact, the same entity and/or that all domain names are under common control; and/or, to file a separate complaint for any domain name for which it is not possible to demonstrate that all named Respondents are in fact the same entity and/or that all domain names are under common control and indicate which domain name will no longer be included in the current Complaint. The Complainant filed an amended Complaint on November 2, 2022, including arguments for consolidation.

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 November 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 24, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondents' default on November 25, 2022.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on December 5, 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 the French company Baccarat SA, the world-famous manufacturer of crystal wares since 1764 that has extensively advertised and marketed its products under the BACCARAT mark on social media materials, newspapers and magazines.

The Complainant operates its main websites at the domain names <baccarat.fr> and <baccarat.com> and registered many different domain names comprising its trademark BACCARAT, such as <baccarat.ru>; <baccaratshop.com>; <baccarat.info>; and <baccaratstore.com>.

The Complainant owns several registrations in multiple jurisdictions for BACCARAT trademark, including the United States of America registration No. 1130893, registered on February 12, 1980, and the International registration No. 433950, registered on December 2, 1977.

The disputed domain names were both registered on June 30, 2022. The disputed domain names resolve to websites purportedly advertising and offering products under the mark BACCARAT at heavily discounted prices.

5. Parties' Contentions

A. Complainant

The Complainant argues that the trademark BACCARAT is considered as well known, the Top-Level Domains ("TLDs") ".com" and ".store" have to be ignored in comparing the disputed domain names to the trademark BACCARAT, and the trademark BACCARAT is entirely reproduced in the disputed domain names.

According to the Complainant, the disputed domain names add the descriptive words "sale" and "crystal", both related to the Complainant's business, which is insufficient to prevent Internet user confusion. The Complainant also mentions that the BACCARAT mark remains recognizable in the disputed domain names for a showing of confusing similarity under the Policy.

The Complainant alleges that the Respondents are not sponsored by, affiliated or licensed with the Complainant, and that they do not have the permission to use the Complainant's trademarks in any manner.

Further, the Complainant says that the Respondents have no rights or legitimate interests in the disputed domain names and that they resolve to websites that pretend to offer for sale BACCARAT crystal products and are very similar to each other and to the Complainant's official websites. Also, the Complainant informs that the crystal items presented on the Respondents' websites are suspected of being counterfeit products as they are not authorized to be sold on these websites or by these sellers and they are sold at very low prices. Besides, many elements that illustrate the websites associated to the disputed domain names were reproduced from the Complainant's official websites.

Further, the Complainant argues that the Respondents' bad faith in registering and using the disputed domain names is demonstrated due to the following aspects:

- considering the notoriety of the Complainant's trademark BACCARAT, the Respondents were necessarily aware of it when they registered the disputed domain names;
- the addition of the descriptive words "crystal" and "sale" shows the Respondents' intention to confuse Internet users, making them believe that they are official BACCARAT products resellers, which is not the case;
- they used the privacy services to register the disputed domain names;
- the websites corresponding to the disputed domain names promote the sale of crystal products reproducing without authorization the Complainant's trademark, logotype and photographic materials;
- the websites are selling counterfeit products or are promoting fake sales so that at the end no goods at all would be sent to the buyer.

Further, the Complainant has attempted to purchase a product from the website "www.salebaccarat.com" but has never received the product.

The Complainant therefore concludes that the Respondents are engaged in an illicit trade by deceiving Internet users with the sole purpose of commercial gain.

Finally, the Complainant requests the transfer of the disputed domain names.

B. Respondents

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

6. Discussion and Findings

6.1 Preliminary Issue: Consolidation of Respondents

Further to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.11.1, "[p]aragraph 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." When considering a complaint filed against multiple respondents, section 4.11.2 of the [WIPO Overview 3.0](#) states that "panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario."

Considering the Complainant's request for consolidation of multiple Respondents, the Panel finds that the disputed domain names are under common control for the following reasons:

- both disputed domain names were registered on the same day using the privacy services located in the United States of America;
- the disputed domain name share similar domain name construction by adding the descriptive terms to the Complainant's BACCARAT trademark;
- both Respondents are allegedly located in China, and their email addresses have the same pattern, *i.e.*, "name+number@163.com";
- the disputed domain names have been both actively used for similar websites, purportedly offering for sale the Complainant's products at heavily discounted prices;
- the Contact Us pages of the websites at the disputed domain names both indicate the addresses in "Phoenix IL US"; and
- the websites at the disputed domain names have been both developed with the free and open-source

content management system “WordPress 6.0.2”, and are hosted with the same hosting provider at similar IP addresses.

Additionally, neither Respondent has objected to the consolidation or voiced any rebuttal as regards the consolidation request made by the Complainant.

Moreover, the Panel finds that consolidation would be fair and equitable, and will proceed with the decision.

6.2 Substantive Issues

As per paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

A. Identical or Confusingly Similar

The evidence presented in the Complaint demonstrates that the Complainant is the owner of several trademark registrations for BACCARAT around the world, as well as several different domain names comprising the BACCARAT trademark.

The disputed domain names comprise the Complainant’s trademark BACCARAT in its entirety. The addition of the terms “sale” and “crystal” does not avoid a finding of confusing similarity between the disputed domain names and the Complainant’s trademark, since the Complainant’s trademark remains recognizable in the disputed domain names.

In this regard, it is the general view among UDRP panels that the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) to a trademark in a domain name does not prevent a finding of confusing similarity under the first element of the UDRP (see section 1.8 of the [WIPO Overview 3.0](#)).

Also, as numerous prior UDRP panels have recognized, the incorporation of a trademark in its entirety or a dominant feature of a trademark, is sufficient to establish that a domain name is identical or confusingly similar to the complainant’s mark. See section 1.7 of the [WIPO Overview 3.0](#).

The Panel finds that paragraph 4(a)(i) of the Policy has been proved by the Complainant, *i.e.*, the disputed domain names are confusingly similar to the Complainant’s trademarks.

B. Rights or Legitimate Interests

The Respondents have not submitted a response to the Complaint.

There is no evidence that the Respondents have any authorization to use the Complainant’s trademark or to register domain names containing the trademark BACCARAT.

There is no evidence that the Respondents are commonly known by the disputed domain names.

There is also no evidence that the Respondents are making a legitimate noncommercial or fair use of the disputed domain names or that before any notice of the dispute the Respondents have made use of, or demonstrable preparations to use the disputed domain names or a name corresponding to the disputed domain names in connection with a *bona fide* offering of goods or services. Instead, the Complainant has

showed evidence that the disputed domain names have been used purportedly offering for sale the Complainant's products at heavily discounted prices. Further, the Complainant has attempted to purchase a product from the website "www.salebaccarat.com" but has never received the product.

Moreover, the construction of the disputed domain names themselves is such to carry a risk of implied affiliation that cannot constitute fair use. See section 2.5.1 of the [WIPO Overview 3.0](#).

The Panel finds that the use of the disputed domain names, which incorporates the Complainant's trademark, does not correspond to a *bona fide* use of the disputed domain name under the Policy.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(ii) of the Policy has been satisfied, *i.e.*, the Respondents have no rights or legitimate interests in the disputed domain names.

C. Registered and Used in Bad Faith

The trademark BACCARAT is registered by the Complainant in several jurisdictions and has been used since a long time. Also, the Complainant registered many different domain names consisting of the mark BACCARAT. All these registrations predate the registration date of the disputed domain names.

The disputed domain names reproduce the Complainant's trademark BACCARAT in its entirety, with the additional descriptive words "sale" and "crystal" and the Respondents have no rights or legitimate interests in the disputed domain names. Indeed, the addition of these terms does not prevent a finding of confusing similarity between the Complainant's trademark and the disputed domain names.

The Complainant's BACCARAT mark is distinctive, widely known and has a strong worldwide visibility. UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to a well-known mark by an unaffiliated entity can by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

The Complaint demonstrates that there is no other reason for the use and registration of the disputed domain names than to take advantage of the fame of the Complainant's trademark, with the intent to deceive Internet users into believing that the disputed domain names are associated with the Complainant. The Respondents obviously knew of the Complainant's mark when they registered the disputed domain names.

In addition to the above, the Complainant has showed evidence that the disputed domain names have been used by the Respondents to mislead Internet users into believing that the corresponding websites are related to or authorized by the Complainant, by purportedly advertising and offering products under the mark BACCARAT at heavily discounted prices, and the products offered are either counterfeit or not delivered after the sale is concluded, a fact also demonstrated in the Complaint.

Moreover, the Respondents have chosen not to respond to the Complainant's allegations. According to the panel's decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company*, WIPO Case No. [D2009-0610](#), "the failure of the Respondent to respond to the Complaint further supports an inference of bad faith".

The Respondents also used the privacy services to hide their identity, which confirms bad faith registration and use.

Therefore, this Panel finds that the Respondents have intentionally attempted to cause confusion with the Complainant's trademark by misleading Internet users into believing that its websites belong to or are associated with the Complainant. This Panel finds that the Respondents' attempt of taking undue advantage of the trademark BACCARAT for commercial gain as described in paragraph 4(b)(iv) of the Policy has been demonstrated.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(iii) of the Policy has been satisfied, *i.e.*, the disputed domain names have been registered and are being 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 names, <baccaratcrystal.store> and <salebaccarat.com>, be transferred to the Complainant.

/Mario Soerensen Garcia/

Mario Soerensen Garcia

Sole Panelist

Date: December 28, 2022