

ADMINISTRATIVE PANEL DECISION

Victoria Beckham v. Bbhd Ubsw

Case No. D2022-4594

1. The Parties

The Complainant is Victoria Beckham, United Kingdom, represented by Demys Limited (a Com Laude Group company), United Kingdom.

The Respondent is Bbhd Ubsw, China.

2. The Domain Name and Registrar

The disputed domain name <wearvictoriabeckham.com> (the “Domain Name”) 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 December 1, 2022. On December 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 6, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Whois Agent, Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 6, 2022, 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 amended Complaint on December 6, 2022.

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 Respondent of the Complaint, and the proceedings commenced on December 9, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 29, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 3, 2023.

The Center appointed Olga Zalomiy as the sole panelist in this matter on January 10, 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 is a British singer, fashion designer, and a television personality. The Complainant owns several trademark registrations for the VICTORIA BECKHAM trademark, such as:

- The United Kingdom registration for the trademark VICTORIA BECKHAM, No. 902543320, registered on January 22, 2007;
- The European Union registration for the trademark VICTORIA BECKHAM, No. 002543320, registered on January 22, 2007;
- International trademark registration for the trademark VICTORIA BECKHAM, No. 1163611, registered on June 14, 2012.

The Respondent registered the Domain Name on July 13, 2022. The Domain Name resolves to an online store selling goods under the VICTORIA BECKHAM trademark. The website under the Domain Name does not feature any form of disclaimer that would make it clear that the Respondent is not associated with, endorsed by, or otherwise affiliated with the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant's contentions can be summarized as follows:

The Complainant is a British singer, fashion designer, television personality, and a member of Most Excellent Order of the British Empire. The Complainant operates a commercial website at "www.victoriabeckham.com" which makes her products available to web users. The Complainant and her business activities are well known.

The Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights because the only difference between the Domain Name and the Complainant's registered trademarks is the addition of the generic and descriptive word "wear", which does not detract from confusing similarity. The generic Top-Level Domain ("gTLD") ".com" should be disregarded under the confusing similarity test.

The Complainant contends that the Respondent does not have any rights or legitimate interests in the Domain Name because of the following: 1) the Respondent has not been commonly known as "victoria beckham" or "wear victoria beckham"; 2) the Respondent is not a licensee of the Complainant; and 3) the Respondent is not using the Domain Name in connection with a *bona fide* offering of goods or services and is not making a legitimate noncommercial or fair use of the Domain Name because the website under the Domain Name sells counterfeit products.

The Domain Name was registered and is being used in bad faith because it is inconceivable that the Respondent did not have the Complainant in mind when it registered the Domain Name because of the following: 1) the Complainant's name and trademark are well-known; 2) the Complainant's VICTORIA BECKHAM mark is highly distinctive; and 3) the Complainant has a reasonable belief that the Domain Name is used to sell counterfeit versions of the Complainant's products

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4(a) of the UDRP, to succeed in this proceeding, the Complainant must prove each of the following elements with respect to the Domain Name:

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

A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the UDRP, the Complainant must prove that the Domain Name is identical or confusingly similar to the trademark or service mark in which the Complainant has rights.

The submitted evidence shows that the Complainant owns several trademark registrations for the VICTORIA BECKHAM trademark. Pursuant to section 1.2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), this satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case.

"Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element." Section 1.8, [WIPO Overview 3.0](#). It is well-established that the applicable gTLD should typically be disregarded under the confusingly similarity test as a standard registration requirement. Section 1.11.1, [WIPO Overview 3.0](#).

The Domain Name consists of the word "wear", the Complainant's VICTORIA BECKHAM trademark, and the gTLD ".com". Because the Complainant's VICTORIA BECKHAM trademark is recognizable within the Domain Name, the addition of the word "wear" does not prevent a finding of confusing similarity. The gTLD ".com" is disregarded as a standard registration requirement. Therefore, the Domain Name is confusingly similar to the Complainant's VICTORIA BECKHAM trademark.

The Complainant has satisfied the first element of the UDRP.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on the evidence, shall demonstrate a respondent's rights or legitimate interests to a domain name for the purposes of paragraph 4(a)(ii) of the Policy:

- (i) before any notice of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent (as an individual, business, or other organization) has been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or

(iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

To succeed under the second UDRP element, the Complainant must make out a *prima facie*¹ case in respect of the lack of rights or legitimate interests of the Respondent.

The Panel finds that the Complainant satisfied her burden of production for the following reasons. First, the evidence on file shows that the Respondent has not been commonly known by the Domain Name. Second, the Complainant contends, and the Respondent does not deny that the Complainant did not authorize the Respondent's use of the Complainant's trademark in the Domain Name.

Third, the Respondent's use of the Domain Name does not satisfy requirements of *bona fide* offering of goods and services. The Respondent used the Domain Name to point to a website in English under the title "VICTORIA BECKHAM" that purports to sell clothing and footwear under the VICTORIA BECKHAM mark. Previous UDRP panels have recognized that resellers or distributors using domain names containing the complainant's trademark to undertake sales of the complainant's goods may be making a *bona fide* offering of goods and thus have a right or legitimate interest in such domain names in some situations.² Outlined in the *Okidata* test,³ the following cumulative requirements must be satisfied for the respondent to make a *bona fide* offering of goods and services:

"(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 this case, the Respondent's use of the Domain Name did not satisfy requirements of such *bona fide* offering of goods and services because it did not accurately and prominently disclose the lack of relationship between the Respondent's website and the Complainant. The website at the Domain Name provides no information about its owner.

In addition, prior UDRP panels have held that the use of a domain name for illegal activity, such as the sale of counterfeit goods, can never confer rights or legitimate interests on a respondent.⁴ The following circumstantial evidence, among others, can support a complainant's otherwise credible claim of illegal respondent activity:

1) evidence that the goods are offered disproportionately below market value,

2) that the respondent has misappropriated copyrighted images from the complainant's website, or

3) that a respondent has improperly masked its identity to avoid being contactable.⁵

Here, the Complainant alleges that the goods sold on the Respondent's website are counterfeit. The evidence on file shows that the purported VICTORIA BECKHAM clothing is offered at a significant discount on the Respondent's website, the Respondent misappropriated copyright images from the Complainant's website, and that the Respondent improperly masked its identity to avoid being contactable. Thus, it is likely

¹ Section 2.1, [WIPO Overview 3.0](#).

² Section 2.8.1, [WIPO Overview 3.0](#).

³ *Okidata Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#)

⁴ Section 2.13.1, [WIPO Overview 3.0](#).

⁵ Section 2.13.3 [WIPO Overview 3.0](#).

that the goods sold on the Respondent's website are counterfeit and, as a result, that the Respondent's use of the Domain Name for illegal activity does not confer rights or legitimate interests on it.

Based on the foregoing, the Panel finds that the Complainant has made out at least a *prima facie* case and the burden of producing evidence demonstrating it has rights or legitimate interests in the Domain Name has shifted to the Respondent.⁶ Because the Respondent failed to present any rebutting evidence, the Complainant is deemed to have satisfied the second element of the UDRP.

C. Registered and Used in Bad Faith

Pursuant to paragraph 4(a)(iii) of the Policy, the Complainant must prove that the Domain Name was registered and is being used in bad faith.

"Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith".⁷

Given the Complainant's international fame and the substantial goodwill which she had generated in her personal name and her corresponding trademark, and the fact that the Domain Name is confusingly similar to that trademark, the Respondent is presumed to have registered and used the Domain Name in bad faith.

The UDRP establishes that, for purposes of paragraph 4(a)(iii), bad faith registration and use of a domain name can be established by a showing of circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to the respondent's website or other online location, by creating a likelihood of confusion with the complainant's mark as to source, sponsorship, affiliation or endorsement of the respondent's website or location, or of a product or service on the respondent's website or location. See Policy, paragraph 4(b)(iv).

Prior UDRP panels have found "the following types of evidence to support a finding that a respondent has registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant's mark: [...] (ii) seeking to cause confusion (including by technical means beyond the domain name itself) for the respondent's commercial benefit, even if unsuccessful, (iii) the lack of a respondent's own rights to or legitimate interests in a domain name, [...] (vi) absence of any conceivable good faith use".⁸

There is plethora of such evidence in this case. It is likely that the Respondent, who has no rights or legitimate interests in the Domain Name, registered it to trade on the goodwill of the Complainant's trademark. The website at the Domain Name, which is confusingly similar to the Complainant's mark, is used to point to an online store offering likely counterfeit goods under the Complainant's trademark. Further, the website under the Domain Name displays the Complainant's copyrighted images and contains no information about its real owner. Therefore, the totality of circumstances of this case indicate that the Respondent is registered and is using the Domain Name in bad faith.⁹

The Complainant has satisfied the third element of the UDRP.

⁶ Section 2.1, [WIPO Overview 3.0](#).

⁷ Section 3.1.4, [WIPO Overview 3.0](#).

⁸ Section 3.1.4, [WIPO Overview 3.0](#).

⁹ *Id.*

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 Domain Name, <wearvictoriabeckham.com>, be transferred to the Complainant.

/Olga Zalomiy/

Olga Zalomiy

Sole Panelist

Date: January 17, 2023