

ADMINISTRATIVE PANEL DECISION

ABG-TB IPCO (UK) Limited v. Lai Guiping

Case No. D2023-4764

1. The Parties

The Complainant is ABG-TB IPCO (UK) Limited, United States of America (“United States” or “US”), represented by Authentic Brands Group, United States.

The Respondent is Lai Guiping, China.

2. The Domain Name and Registrar

The disputed domain name <tedbakerhome.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 November 15, 2023. On November 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 17, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Unidentified) and contact information in the Complaint. The Center sent an email communication to the Complainant on the same date 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 November 17, 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 November 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 15, 2023.

The Center appointed Mladen Vukmir as the sole panelist in this matter on December 19, 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 US company, the owner of the world-famous TED BAKER brand under which it is and it has been manufacturing for many years apparel, accessories, footwear, home wear, and beauty products.

The Complainant is the owner of a numerous registered TED BAKER trademarks (“TED BAKER trademarks”) in various jurisdictions, including TED BAKER word trademark registered in the United States on January 7, 2003, under the registration number 2672649 for goods and services in classes 9, 14, 18 and 24.

The Complainant operates its official website under the domain name <tedbaker.com>.

The Respondent is the registrant of the disputed domain name, as disclosed by the Registrar.

The disputed domain name was registered on August 4, 2022, and it resolves to an active website purportedly offering for sale goods under the Complainant’s trademark, and it prominently features the Complainant’s TED BAKER trademarks without providing a disclaimer describing the (lack of) relationship between the Complainant and the Respondent.

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 name.

Notably, the Complainant contends that:

(i) it is the owner of the world-famous TED BAKER brand. The Complainant’s products are being advertised, marketed, promoted, distributed and sold worldwide under well-known and famous TED BAKER trademarks. The Complainant’s brand includes a global portfolio of more than 500 trademarks covering a wide variety of goods and services. The Complainant began using its TED BAKER trademarks over 35 years ago. The Complainant spends millions of dollars marketing its goods and services globally, using TED BAKER trademarks and has undertaken extensive efforts to protect its name and trademarks;

(ii) the disputed domain name is identical or confusingly similar to the Complainant’s TED BAKER trademarks as it contains the entire TED BAKER trademarks with the only difference being the insertion of the descriptive word “home” after the Complainant’s TED BAKER trademarks;

(iii) the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has not been licensed, contracted, or otherwise permitted by the Complainant in any way to use the TED BAKER trademarks or to apply for any domain names incorporating the TED BAKER trademarks. There is no evidence that the Respondent is using or plans to use TED BAKER trademarks or the disputed domain name for a *bona fide* offering of goods and services;

(iv) the Respondent has registered and is using the disputed domain name in bad faith. Prior to registering the disputed domain name, the Respondent evidently knew of the Complainant’s TED BAKER trademarks, as a basic online search would have revealed their existence. The Respondent used a privacy shield to

conceal its identity. The Respondent is trying to pass off the disputed domain name as the Complainant's website to sell competing and unauthorized goods. The Respondent has no reason to use TED BAKER trademarks in the disputed domain name other than to attract Internet users to its site for commercial gain.

B. Respondent

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

6. Discussion and Findings

The Panel now proceeds to consider this matter on the merits in light of the Complaint, the lack of the Response, the Policy, the Rules, the Supplemental Rules, and any rules and principles of law that it deems applicable pursuant to paragraph 15(a) of the Rules.

Paragraph 4(a) of the Policy provides that the Complainant must prove, with respect to the disputed domain name, each of the following:

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

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.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here, "home", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Complainant is the holder of a number of TED BAKER trademarks registered before the competent authorities worldwide. As such, these trademarks provide to the Complainant all the exclusive rights that are granted with such trademark registrations.

After performing the side-by-side comparison of the disputed domain name and TED BAKER trademarks, it is evident to the Panel that the disputed domain name incorporates the Complainant's TED BAKER trademarks in its entirety, with the mere addition of word "home" which does not prevent a finding of confusing similarity. The generic Top-Level Domain ".com" is a standard registration requirement and as such may be disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out a number 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 Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Respondent is not authorized by the Complainant to use TED BAKER trademarks, and there is no indication that the Respondent is known under the disputed domain name. There is no apparent relation from the records between the Respondent and the Complainant, nor does it arise that the Complainant has ever licensed or otherwise permitted the Respondent to use its TED BAKER trademarks, or to apply for or use any domain name incorporating the same trademark.

There is no evidence in the case file or otherwise apparent to the Panel that the Respondent has been using the disputed domain name in connection with a *bona fide* offering of goods or services or making a legitimate noncommercial or fair use of the disputed domain name. The Respondent has failed to provide any reply to the Complaint, and accordingly failed to prove that it has rights or legitimate interests in the disputed domain name.

The Complainant’s unrefuted claim that the goods advertised on the disputed domain name would be counterfeit are not, however, accompanied by any supporting evidence, reason why the Panel may not make a conclusory assertion on this regard. [WIPO Overview 3.0](#), section 2.13.2.

Furthermore, the nature of the disputed domain name, comprising the Complainant’s trademark and an additional related term, indicates an awareness of the Complainant and its mark and create a risk of affiliation or association with the Complainant, which does not support a finding of any rights or legitimate interests. [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, 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 the Respondent registered and is using the disputed domain name for offering for sale goods containing the Complainant’s TED BAKER trademarks, all without the authorization, approval, or license of the Complainant.

The Panel finds that it is highly unlikely that the Respondent was unaware of the Complainant and its well-known TED BAKER trademarks when it registered the disputed domain name. In this Panel's view, the Respondent chose to register the disputed domain name that reproduces the Complainant's TED BAKER trademarks to take advantage of their reputation without any authorization or rights from the Complainant, and to divert Internet users, for commercial gain, by creating likelihood of confusion as to the affiliation with the Complainant.

The Panel concludes that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or of a product or service on the Respondent's website.

Based on the available record, the Panel finds that the Complainant has 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 name <tedbakerhome.com> be transferred to the Complainant.

/Mladen Vukmir/

Mladen Vukmir

Sole Panelist

Date: January 2, 2024