

## **ADMINISTRATIVE PANEL DECISION**

### **Ariat International, Inc. v. zhang qiang**

### **Case No. D2024-4825**

#### **1. The Parties**

The Complainant is Ariat International, Inc., United States of America, represented by Marq Vision, Inc., United States of America.

The Respondent is zhang qiang, China.

#### **2. The Domain Names and Registrar**

The disputed domain names <ariatargentina.com>, <ariatbatailietuva.com>, <ariatbotasuy.com>, <ariatbrasil.net>, <ariatcanada.com>, <ariatdanmark.com>, <ariatgreece.com>, <ariatnorge.com>, <ariatportugal.net>, <ariatsouthafrica.com>, and <ariatsrbija.com> are registered with Paknic (Private) Limited (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 22, 2024. On November 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On November 24, 2024, 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 November 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 17, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 20, 2024.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on December 26, 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.

#### **4. Factual Background**

The Complainant in this administrative proceeding is Ariat International, Inc., United States of America ("United States"). The Complainant produces and distributes products such as footwear, apparel and accessories under the ARIAT trademark.

The Complainant is, inter alia, the owner of the following:

United States trademark registration number 1755466 for the ARIAT (device) trademark registered on March 2, 1993.

European Union Trademark registration number 000369074 for the ARIAT (device) trademark registered on February 28, 2000.

International trademark registration number 861970 for the ARIAT (word) trademark registered on March 7, 2005.

The aforementioned trademark registrations claim protection for a wide range of products such as clothing, footwear, apparel and accessories.

In addition, the Complainant promotes its trademarks through its official website, "www.ariat.com."

The disputed domain names were all registered between June 25, 2023, and June 26, 2023, and, at the time of filing of the Complaint, resolved to websites displaying the Complainant's ARIAT (word and device) trademarks. On these websites, the goods displayed are the same as those offered by the Complainant.

#### **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 names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to the ARIAT trademark, that the Respondent has no rights or legitimate interests in respect of the disputed domain names, and particularly that the Respondent registered the disputed domain names to unfairly use the Complainant's good name and trademark to impersonate the Complainant and mislead customers in order to sell them purported ARIAT-branded goods.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

In order for the Complainant to obtain a transfer of the disputed domain names, paragraph 4(a) of the Policy requires that the Complainant must demonstrate to the Panel that:

(i) the disputed domain names are 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 disputed domain names; and
- (iii) the disputed domain names have been registered and are 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.

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 entirety of the mark is reproduced and recognizable within the disputed domain names. Accordingly, the disputed domain names are 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, "argentina", "brasil", "canada", "danmark", "greece", "norge", "portugal", "south africa", "srbija", "botasuy" ("botas" means "boots" in Spanish and "UY" is the international country code for Uruguay) and "batailietuva" (i.e. "Lithuanian shoes" in Lithuanian), 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.

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 Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. 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 names such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegitimate activity here, claimed impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that the Respondent was aware of the Complainant's trademark registrations and rights to the ARIAT trademark when it registered the disputed domain names. ARIAT is not a common or descriptive term. The disputed domain names contain the Complainant's registered ARIAT trademark in its entirety, without any authorization or approval, and this is the only distinctive component of the disputed domain names.

The disputed domain names were registered three decades after the Complainant registered its ARIAT trademark in 1993. In addition, owing to the use of all of the disputed domain names to resolve to websites displaying the Complainant's trademark and logo, and offering purported ARIAT-branded goods for sale, it is very unlikely that the Respondent was not aware of the existence of the Complainant's trademarks and domain name when registering the disputed domain names. Therefore, it is more likely than not that the Respondent, when registering the disputed domain names, had knowledge of the Complainant's earlier rights to the ARIAT trademark.

Further, by using the disputed domain names, the Panel notes that the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark. Such use constitutes bad faith pursuant to paragraph 4(b)(iv) of the Policy.

Moreover, panels have held that the use of a domain name for illegitimate activity, here alleged to be used to mislead Internet users into believing they are visiting authorized websites of (or linked to) the Complainant, i.e., claimed impersonation/passing off, constitutes bad faith ([WIPO Overview 3.0](#), section 3.4). Having reviewed the record, the Panel finds that the Respondent's registration and use of the disputed domain names constitutes bad faith under 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:

<ariatargentina.com>  
<ariatbatailietuva.com>  
<ariatbotasuy.com>  
<ariatbrasil.net>  
<ariatcanada.com>  
<ariatdanmark.com>  
<ariatgreece.com>  
<ariatnorge.com>  
<ariatportugal.net>  
<ariatsouthafrica.com>  
<ariatsrbija.com> be transferred to the Complainant.

*/Fabrizio Bedarida/*

**Fabrizio Bedarida**

Sole Panelist

Date: January 9, 2025