

ADMINISTRATIVE PANEL DECISION

Dorel France v. Mustafa Gunes, BebeConfort
Case No. D2024-5266

1. The Parties

The Complainant is Dorel France, France, represented by Bignon Lebray, France.

The Respondent is Mustafa Gunes, BebeConfort, France.

2. The Domain Name and Registrar

The disputed domain name <bebeconfortshop.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 20, 2024. On December 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 23, 2024, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 24, 2024, 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 27, 2024.

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 January 6, 2025. In accordance with the Rules, paragraph 5, the due date for Response was January 26, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 29, 2025.

The Center appointed Vincent Denoyelle as the sole panelist in this matter on January 31, 2025. 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 has two separate business segments including a baby and nursery care segment. The Complainant manufactures and sells baby and nursery care products including toddler car seats and booster seats.

The Complainant is the owner of several BEBECONFORT trade marks including the following;

- European Union Trade Mark BEBECONFORT registration No. 008137911 filed on March 5, 2009 and registered on June 16, 2016 in classes 5, 6, 8, 9, 10, 11, 12, 16, 18, 19, 20, 21, 22, 24, 25, 28 and 35; and
- French Trade Mark BEBECONFORT registration No. 3605194 filed on October 16, 2008 and registered on March 20, 2009 in classes 3, 5, 6, 8, 9, 10, 11, 12, 16, 18, 19, 20, 21, 22, 24, 25, 28 and 35.

The disputed domain name was registered on December 9, 2024.

The disputed domain name pointed to an e-commerce website reproducing the trade mark of the Complainant and purporting to sell products in competition with the Complainant's products, without any disclaimer. The disputed domain name now points to a page stating "Sorry, this store is currently unavailable" with a link to the Shopify website.

The only information known about the Respondent is as shown in the Registrar's verification response disclosing registrant and contact information for the disputed domain name.

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 the disputed domain name wholly incorporates the Complainant's BEBECONFORT trade mark, with the mere addition of the descriptive element "shop" and that as such, the disputed domain name is identical or at least confusingly similar to the Complainant's trade mark.

The Complainant contends that the Respondent should be considered as having no rights or legitimate interests in respect to the disputed domain name. The Complainant points to the content of the website associated with the disputed domain name to conclude that it is an attempt to give the impression of an association with the Complainant's business and ultimately to scam consumers.

The Complainant argues that it has accrued substantial goodwill and recognition since its establishment in 1962 so that the Respondent would have been aware of the Complainant and its trade mark BEBECONFORT when the Respondent registered the disputed domain name. Turning to the issue of use of the disputed domain name in bad faith, the Complainant contends that the Respondent is intentionally attempting to take advantage of the Complainant's trade mark in order to deceive users by collecting their personal information and credit card numbers while letting them believe the Respondent's activities are associated with that of the Complainant.

B. Respondent

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

6. Discussion and Findings

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 trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the BEBECONFORT trade mark is reproduced within the disputed domain name.

Accordingly, the disputed domain name is confusingly similar to the Complainant's trade mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "shop", 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 trade 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 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 Panel notes that the composition of the disputed domain name carries a risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1. In addition, the disputed domain name pointed to an e-commerce website reproducing the trade mark of the Complainant and purporting to sell products in competition with the Complainant's products, without any disclaimer.

Panels have held that the use of a domain name for illegitimate activities, 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.

The disputed domain name reproduces the exact BEBECONFORT trade mark of the Complainant and this is unlikely to be a coincidence given the overall circumstances of the present case including (i) the fact that the disputed domain name was registered relatively recently and many years after the registration of the trade mark BEBECONFORT, (ii) the fact that the disputed domain name reproduces the entire BEBECONFORT trade mark and (iii) the fact that the Respondent is located in France where the Complainant has its headquarters.

As for the use of the disputed domain name in bad faith, the Panel notes that the website that was associated with the disputed domain name purported to sell products in competition with the Complainant's products, without any disclaimers and, the Respondent used the trade mark of the Complainant as part of the registration contact details for the disputed domain name. The Panel finds that the disputed domain name was used in an effort to suggest an affiliation with the Complainant and to mislead unsuspecting Internet users.

On this basis, the Panel finds that, as per paragraph 4(b)(iv) of the Policy, by using the disputed domain name, the Respondent has intentionally attempted 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 the 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.

Panels have held that the use of a domain name for illegitimate activities here, claimed impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <bebeconfortshop.com> be transferred to the Complainant.

/Vincent Denoyelle/

Vincent Denoyelle

Sole Panelist

Date: February 13, 2025