

ADMINISTRATIVE PANEL DECISION

Alliance Against Counterfeit Spirits Ltd. v. kejiang haung, Telligent Limited
Case No. D2022-1015

1. The Parties

The Complainant is Alliance Against Counterfeit Spirits Ltd., United Kingdom, represented by Strategic IP Information Pte Ltd., Singapore.

The Respondent is kejiang haung, Telligent Limited, United States of America.

2. The Domain Name and Registrar

The disputed domain name <aacsglobal.org> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 24, 2022. On March 24, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 24, 2022, 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 proceeding commenced on April 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 26, 2022. The Response was filed with the Center on April 18, 2022.

The Center appointed Sebastian M.W. Hughes as the sole panelist in this matter on May 24, 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

A. Complainant

The Complainant is a company incorporated in the United Kingdom. The Complainant represents some of the largest spirits brands in the world in providing services to combat counterfeiting of spirits brands, under the trade mark AACS (the "Trade Mark").

The Complainant is the owner of International registration No. 1553409 for the Trade Mark, with a registration date of April 8, 2020.

The Complainant is the owner of the domain name <aacs-global.com> (the "Complainant's Domain Name"), which is resolved to its official website at "www.aacs-global.com" (the "Complainant's Website").

B. Respondent

The Respondent is a company incorporated in the State of Nevada in the United States of America.

C. The Disputed Domain Name

The disputed domain name was registered on August 25, 2021.

D. Use of the Disputed Domain Name

The disputed domain name was previously resolved to a website which is a replica of the Complainant's Website (the "Respondent's Website"). Following the filing of the Complaint herein, the Respondent's Website has been taken down.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Trade Mark; the Respondent has no rights or legitimate interests in respect of the disputed domain name; and the disputed domain name has been registered and is being used in bad faith.

B. Respondent

The Respondent accepts that the disputed domain name is identical or confusingly similar to the Trade Mark; contends that it has rights or legitimate interests in respect of the disputed domain, as a provider of a legitimate non commercial activity that constitutes fair use for the purposes of the Policy; and contends that it has accordingly not registered or used the disputed domain name in bad faith.

6. Discussion and Findings

The Complainant must prove each of the three elements in paragraph 4(a) of the Policy in order to prevail.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has rights in the Trade Mark acquired through use and registration.

The disputed domain name incorporates the entirety of the Trade Mark (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7) followed by the word

“global”. Disregarding the relevant generic Top-Level Domains (“gTLDs”) “.org” and “.com” and lack of a hyphen, it is also identical to the Complainant’s Domain Name.

Where a relevant trade mark is recognisable within a disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element (see [WIPO Overview 3.0](#), section 1.8).

The Panel therefore finds that the disputed domain name is confusingly similar to the Trade Mark.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of non-exhaustive circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to the respondent of the dispute, the respondent’s use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed 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 disputed domain name even if the respondent has acquired no trade mark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

The Complainant has not authorised, licensed, or permitted the Respondent to register or use the disputed domain name or to use the Trade Mark. The Panel finds on the record that there is therefore a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, and the burden is thus on the Respondent to produce evidence to rebut this presumption (see [WIPO Overview 3.0](#), section 2.1).

The Complainant contends that the Respondent’s Website is a rogue website that is identical to the Complainant’s Website, and which has been set up to illegitimately obtain commercial benefit from unsuspecting Internet users. In this regard, the Complainant relies upon evidence of an approach by its agent to the Respondent’s Website in an attempt to identify a fake wine bottle, which resulted in a request for payment of a fee of CNY 48.70 for the Respondent to help identify the counterfeiting activity.

The Respondent contends that it is conducting a legitimate non commercial activity which constitutes fair use pursuant to paragraph 4(c)(iii) of the Policy; and that the Respondent’s Website is a free educational and charitable resource for consumers who might be victims of counterfeit spirits but cannot afford to pay for such identification, whereas the Complainant only provides training to law enforcement officers.

The Respondent claims that it offers a free counterfeit spirits identification service via the Respondent’s Website, provided that anyone who requests such service bears the delivery charge of CNY 30. The Respondent contends that it does not obtain any commercial gain from such conduct, as the common market price for identifying counterfeit spirits is CNY 2000-7000.

The Respondent also asserts that the Respondent’s Website contains a disclaimer, but did not provide any evidence to support this assertion.

The Respondent contends that, upon receiving the Complaint herein, it has put the Respondent’s Website under maintenance in order to eliminate any confusion with the Complainant’s Trade Mark as to the source or affiliation of the Respondent’s Website.

The Panel does not find the Respondent's contentions convincing. The evidence demonstrates that the Respondent has registered and used the disputed domain name, without the authorisation or approval of the Complainant, in order to impersonate the Complainant's Website, for commercial gain. The fact the Respondent has chosen, following filing of the Complaint, to take down the Respondent's Website and cease any use of the disputed domain name does not sit well with its assertions of legitimate use.

There has been no evidence adduced to show that the Respondent has been commonly known by the disputed domain name.

In light of the above factors, the Panel finds on balance that the Respondent has failed to produce any evidence to rebut the Complainant's *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Panel therefore finds that the Respondent lacks rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

As to bad faith, the Respondent contends that it registered the disputed domain name with a genuine intent to fight against counterfeit spirits by providing brands and counterfeit indicators related information as well as counterfeit spirits identification service free of charge. The Respondent asserts that it is not a competitor of the Complainant as it only conducts charitable activities which do not attract commercial gain.

The Respondent submits further that, upon receiving the Complaint, it has put the Respondent's Website under maintenance in order to eliminate any confusion with the Complainant's Trade Mark as to the source or affiliation of the Respondent's Website and, on top of that, the Respondent has also displayed a disclaimer on the front page of the Respondent's Website.

The Panel does not find the Respondent's assertions as to lack of bad faith convincing. The undisputed evidence is that the Respondent's Website is a replica of the Complainant's Website; and that the Respondent charges a fee for provision of its unauthorised services via the Website. The fact the Respondent has chosen to take down the Respondent's Website following the filing of the Complaint, and the absence of any evidence in support of the Respondent's bare assertion as to the existence of a disclaimer on the Respondent's Website, provide further evidence in support of a finding of bad faith for the purposes of the Policy.

For all the foregoing reasons, the Panel concludes that the disputed domain name has been registered and is 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 name <aacsglobal.org> be transferred to the Complainant.

/Sebastian M.W. Hughes/

Sebastian M.W. Hughes

Sole Panelist

Dated: June 10, 2022