

ADMINISTRATIVE PANEL DECISION

LYMI, INC. v. 祥凤 朱
Case No. D2022-1629

1. The Parties

The Complainant is LYMI, INC., United States of America (“United States”), represented by Lane IP Limited, United Kingdom.

The Respondent is 祥凤 朱, China.

2. The Domain Name and Registrar

The disputed domain name <reformationoutlet.com> is registered with Name.com, Inc. (Name.com LLC) (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 5, 2022. On May 5, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 5, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on May 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 amendment to the Complaint on May 6, 2022.

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 May 11, 2022. In accordance with the Rules, paragraph 5, the due date for filing a Response was May 31, 2022. The Respondent did not submit any Response. Accordingly, the Center notified the Respondent’s default on June 1, 2022.

The Center appointed Kiyoshi Tsuru as the sole panelist in this matter on June 8, 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

The Complainant is in the apparel business since 2009.

The Complainant is the owner of several trademark registrations around the world, among others, the following:

Trademark	Registration No.	Jurisdiction	Date of Registration
REFORMATION	4111272	United States	March 13, 2012
REFORMATION	4114140	United States	March 20, 2012
REFORMATION	TMA1062439	Canada	November 8, 2019
REFORMATION	304065822	Hong Kong, China	November 1, 2017
REFORMATION	1069469	New Zealand	October 31, 2017
REFORMATION	40201711838U	Singapore	March 3, 2017
REFORMATION	UK00801351244	United Kingdom	November 28, 2017
REFORMATION	1351244	International Registration	March 3, 2017

The Complainant owns several domain names which predate the registration of the disputed domain name, among which is its official domain name <thereformation.com>. The official website at the domain name <thereformation.com> was launched in 2011.

The Respondent registered the disputed domain name on December 4, 2021, which resolves to a website that operates an online store that offers apparel products under the Reformation brand.

5. Parties' Contentions

A. Complainant

The Complainant submits that it began selling vintage clothes from a small store in Los Angeles, United States, in 2009. In late 2009, the Complainant publicly launched the REFORMATION trademark to reform the fashion industry by using sustainable materials and methods in producing apparel goods and accessories. The Complainant's Los Angeles factory makes some of its products, the rest of which are made at sustainable partner factories around the world.

The Complainant further submits that it has 20 stores across the United States, Canada, and the United Kingdom, and that its apparel products and accessories are for sale in well-known department stores, and major websites. Through its official website, the Complainant offers free worldwide shipping on all orders, and ships to over 270 countries.

I. Identical or Confusingly Similar

The disputed domain name is confusingly similar to the Complainant's trademark, since it incorporates it entirely, followed by the term "outlet".

The use of the generic Top-Level Domain ("gTLD") ".com" should be disregarded in the test of confusing similarity.

II. Rights or Legitimate Interests

There is no evidence to support that the Respondent is commonly known or referred to as "Reformation".

The Respondent is not affiliated with the Complainant, nor is licensed or authorized to use the REFORMATION trademark.

The Complainant does not endorse or sponsor the Respondent's use of the disputed domain name.

That the Respondent cannot demonstrate or establish any rights or legitimate interests in the disputed domain name.

The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name nor in connection with a *bona fide* offering of goods and services.

III. Registered and Used in Bad Faith

The disputed domain name resolves to a website that:

- (1) uses the Complainant's REFORMATION stylized trademark;
- (2) offers clothing for sale; and
- (3) features copyrighted images copied from the Complainant's official website.

Therefore, the Respondent's intention is to mislead Internet users into thinking that they are accessing the Complainant's official website, or one associated to, or affiliated with it. In doing so, the Respondent is using the disputed domain name in bad faith.

The Complainant's trademark is highly distinctive for apparel goods and accessories. Therefore, the disputed domain name (which incorporates the trademark REFORMATION in its entirety, plus the term "outlet") was registered in order to mislead consumers. The inclusion of the term "outlet" increases the likelihood of confusion and induces Internet users into believing that there is an association between the disputed domain name and the Complainant. The website to which the disputed domain name resolves comprises content suggesting that is the Complainant's online outlet store where genuine goods can be obtained at a discount.

B. Respondent

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

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, the Complainant is required to prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainants 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 was registered and is being used in bad faith.

Given the Respondent's failure to submit a formal Response, the Panel may decide this proceeding based on the Complainant's undisputed factual allegations, in accordance with paragraphs 5(f), 14(a), and 15(a) of the Rules (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO

Case No. [D2006-0292](#)).

A. Identical or Confusingly Similar

The disputed domain name is confusingly similar to the Complainant's trademark, as it incorporates it entirely, with the addition of the term "outlet".

Generally, previous panels appointed under the UDRP have found that the inclusion of additional terms in a disputed domain name does not prevent a finding of confusing similarity under the first element (see sections 1.7, and 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)")).

The addition of the gTLD ".com" to the disputed domain name constitutes a technical requirement of the domain name registration. Therefore, it can be disregarded in the present case (see *CARACOLITO S SAS v. Nelson Brown, OXM.CO*, WIPO Case No. [D2020-0268](#), and *Société Air France v. Registration Private, Domains By Proxy, LLC, DomainsByProxy.com / Carolina Rodrigues*, WIPO Case No. [D2019-0578](#)).

Therefore, the first element of the Policy has been met.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets forth the following examples as circumstances where a respondent may have rights or legitimate interests in the disputed domain name:

- (i) before any notice to the respondent of the dispute, the use by the respondent of, or demonstrable preparations to use, the disputed 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 disputed domain name, even if it did not acquire 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.

The Complainant has proven to be the owner of several registrations for the REFORMATION trademark in different jurisdictions.

The Complainant has asserted that there is no relationship or affiliation between the Complainant and the Respondent, that it has not granted any license or authorization to the Respondent to use its trademark REFORMATION, and that the Respondent has not been commonly known by the disputed domain name (see *Beyoncé Knowles v. Sonny Ahuja*, WIPO Case No. [D2010-1431](#), and *Six Continents Hotels, Inc. v. IQ Management Corporation*, WIPO Case No. [D2004-0272](#)). The Respondent did not contest these allegations.

According to the evidence filed by the Complainant, the website to which the disputed domain name resolves seems to be an online store, through which apparel products are being sold under the Reformation brand. The composition of the disputed domain name carries a risk of implied affiliation since Internet users may think that the website to which this disputed domain name resolves corresponds to an outlet of the Complainant, or is otherwise affiliated to or sponsored by the Complainant (see section 2.5.1 of the [WIPO Overview 3.0](#), see also *Euro Sko Norge AS v. Whoisguard Inc. / Shier Dede, Shier Dede*, WIPO Case No. [D2020-0194](#), *Bechtel Group, Inc. v. Raman Shuk*, WIPO Case No. [D2020-1469](#), and *Biofarma v. Dawn Mason*, WIPO Case No. [D2019-1952](#)).

Furthermore, the website to which the disputed domain name resolves prominently displays the Complainant's REFORMATION trademark. It also reproduces images of the Complainant's official products,

which copyrights, according to the Complainant, belong to it. Moreover, the copyright notice displayed on the website to which the disputed domain name resolves purports that the Respondent is the rights holder of the said images. In addition, the website does not accurately and prominently disclose the lack of the relationship between the Respondent and the Complainant. This shows that the Respondent has attempted to impersonate the Complainant. A finding of impersonation prevents a determination of a *bona fide* offering of goods or services (see sections 2.5.1 and 2.13.1 of the [WIPO Overview 3.0](#); see also *Self-Portrait IP Limited v. Franklin Kelly*, WIPO Case No. [D2019-0283](#)).

The Complainant has made a *prima facie* case asserting that there is no evidence of the Respondent's use of the disputed domain name in connection with a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use and that the Respondent has not been commonly known by the disputed domain name.

In light of the above, the second element of the Policy has been fulfilled.

C. Registered and Used in Bad Faith

Bad faith under the Policy is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. According to paragraph 4(b) of the Policy, the following circumstances, in particular but without limitation, shall be evidence of registration and use in bad faith:

(i) circumstances indicating that the respondent has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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 its website or location.

As previously stated, the Complainant has proven that it owns registrations for the trademark REFORMATION in several jurisdictions. The fact that the Respondent chose to register the disputed domain name, which resolves to a website that displays the Complainant's trademark, uses the Complainant's copyright protected images, and sells apparel products, suggests that the Respondent knew the Complainant, its trademarks, and its business when registering the disputed domain name. Therefore, the Panel finds that the Respondent has targeted the Complainant, which constitutes bad faith (see section 3.2.1 of the [WIPO Overview 3.0](#); see also *L'Oréal v. Contact Privacy Inc. Customer 0149511181 / Jerry Peter*, WIPO Case No. [D2018-1937](#); and *Gilead Sciences Ireland UC / Gilead Sciences, Inc. v Domain Maybe For Sale c/o Dynadot*, WIPO Case No. [D2019-0980](#)).

These facts also show that the Respondent has intentionally used the disputed domain name to attract, for commercial gain, Internet users to the website to which the disputed domain name resolves, by creating the impression among Internet users that the said website is related to, associated with, or endorsed by the Complainant, which conduct constitutes bad faith under paragraph 4(b)(iv) of the Policy (see section 3.1.4 of the [WIPO Overview 3.0](#); see also *trivago GmbH v. Whois Agent, Whois Privacy Protection Service, Inc. / Alberto Lopez Fernandez, Alberto Lopez*, WIPO Case No. [D2014-0365](#); and *Jupiter Investment Management Group Limited v. N/A, Robert Johnson*, WIPO Case No. [D2010-0260](#)).

Therefore, the third element of the Policy has been met.

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, <reformationoutlet.com>, be transferred to the Complainant.

/Kiyoshi Tsuru/

Kiyoshi Tsuru

Sole Panelist

Date: June 27, 2022