

ADMINISTRATIVE PANEL DECISION

Next Group Plc v. Liqun Wang
Case No. D2022-2605

1. The Parties

The Complainant is Next Group Plc, United Kingdom, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Liqun Wang, China.

2. The Domain Name and Registrar

The disputed domain name <lipsy.asia> is registered with 1API GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 18, 2022. On July 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 19, 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 July 20, 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 amended Complaint on July 22, 2022.

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 July 22, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 11, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 12, 2022.

The Center appointed Alvaro Loureiro Oliveira as the sole panelist in this matter on August 23, 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 a well-known British multinational clothing, footwear, and home products retailer, which has its headquarters in Enderby, England. It has around 700 stores, of which circa 500 are in the United Kingdom, and circa 200 across Europe, Asia, and the Middle East. The Complainant is one of the largest clothing retailers by sales in the United Kingdom.

Through its wholly owned subsidiary, Lipsy Limited, the Complainant is the owner of several trademark registrations for the mark LIPSY. Among others, the Complainant owns Chinese trademark registrations 6294402 and 6294400, both granted in 2010 and currently in force. Proof of these registrations is made by Annex 1 of the Complaint.

The Complainant states that the LIPSY brand was created in the late 1980's and its domain name <lipsy.co.uk> was created in 2001.

The Complainant's LIPSY branded products are sold in 40 stores as well as through wholesale and franchise operations worldwide. Between 2020 and 2022, profit contributions from the LIPSY brand increased from GBP 13 million to GBP 20.5 million, largely due to the Complainant's expansion of its Branded Beauty business and increased clothing sales. Proof of these allegations were produced as Annexes 7.1 and 7.2.

The disputed domain name was registered on October 4, 2015, and resolves to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant is the owner of registrations worldwide for the mark LIPSY, which has been in use for over 20 years. The Complainant contends that the disputed domain name is identical to the Complainant's mark registered and used worldwide.

In fact, the only distinctive word integrating the disputed domain name is "lipsy", which is identical to the Complainant's registered mark, the remaining generic Top-Level Domain ("gTLD") ".asia" is not taken into account.

As stated by the documents presented, the registration and use of the trademark LIPSY, including the registrations in Asian countries, predates the registration of the disputed domain name.

The disputed domain name does not direct to an active website. Nevertheless, the disputed domain name is being offered for sale at Afternic for USD 9,999, an amount that far exceeds the Respondent's out-of-pocket expenses in registering the disputed domain name. Evidence of this offer is shown in Annex 8 of the Complaint.

In sum, the Complainant alleges that the registration and use of the disputed domain name is intentional to mislead Internet users, that it is clear that the Respondent has no rights or legitimate interests in the disputed domain name, and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

The Policy, in its paragraph 4(a), determines that three elements must be presented and duly proven by the Complainant to obtain relief. These elements are:

- i. the disputed domain name is 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 to 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

The disputed domain name is, indeed, identical to the LIPSY trademark, as the trademark is entirely incorporated in the Second-Level of the disputed domain name.

The Complainant has presented consistent evidence of ownership of the trademark LIPSY in jurisdictions throughout the world, by presenting international registrations for it, as well as comprehensive evidence of the use of the trademark for over two decades.

The use of the trademark with the gTLD “.asia” in the disputed domain name does not prevent a finding of identity with the trademark. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.11.1.

Given the above, the Panel concludes that the disputed domain name is identical to the registered trademark of the Complainant.

B. Rights or Legitimate Interests

Given the clear evidence that the trademark LIPSY is registered in the name of the Complainant's subsidiary and is widely known as identifying the Complainant's activities, and that the Complainant has not licensed this to the Respondent, the Panel finds that the Complainant has established *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name.

In the absence of a Response, the Respondent has not rebutted such *prima facie* case. Furthermore, the Respondent does not appear to be commonly known by the disputed domain name.

It has also been shown that the Respondent is not making any use of the disputed domain name, noting the disputed domain name does not resolve to an active website. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, nor a *bona fide* offering of goods or services.

The Panel finds that the Complainant has established *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. In the absence of a Response, the Respondent has not rebutted such *prima facie* case.

Furthermore, the Panel has found that the disputed domain name is identical to the Complainant's trademark and thus it carries a high risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

The Panel, thus, finds for the Complainant under the second element of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that the Respondent has probably registered the disputed domain name with the purpose of taking unfair advantage of the Complainant's mark.

The disputed domain name reproduces the Complainant's mark LIPSY in its entirety, being the Second-Level of the disputed domain name identical to the Complainant's mark, with the gTLD ".asia".

The composition of the disputed domain name points towards the Respondent's likely intent to give an impression that the disputed domain name is associated with the Complainant. In the absence of any reasonable explanation for the selection of the disputed domain name by the Respondent, and in the circumstances of this case, the Panel finds that it is more likely than not that the disputed domain name has been registered to take advantage due to its value as a trademark owned by the Complainant.

The current passive holding of the disputed domain name does not prevent a finding of bad faith given the totality of the circumstances. Previous UDRP panels have found that the apparent lack of so-called active use of the domain name without any active attempt to sell or to contact the trademark holder does not prevent a finding of bad faith. See, e.g., *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); see also *Redcats S.A. and La Redoute S.A. v. Tumay Asena*, WIPO Case No. [D2001-0859](#); and *DCI S.A. v. Link Commercial Corporation*, WIPO Case No. [D2000-1232](#).

Further, the fact that the disputed domain name is being offered for sale at Afternic for USD 9,999 enhances the appearance that the Respondent registered the disputed domain name in an attempt to obtain undue profit with it.

Here, the Panel notes the distinctive and well-known nature of the trademark LIPSY, the failure of the Respondent to submit a Response, and the implausibility of any good faith use to which the disputed domain name may be put support a finding of bad faith under the doctrine of passive holding.

In the totality of the circumstances, the Panel finds the Complainant has satisfied paragraph 4(a)(iii) 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, <lipsy.asia>, be transferred to the Complainant.

/Alvaro Loureiro Oliveira/
Alvaro Loureiro Oliveira
Sole Panelist
Date: September 7, 2022