

ADMINISTRATIVE PANEL DECISION

Breitling SA v. qiang hong
Case No. D2022-4257

1. The Parties

Complainant is Breitling SA, Switzerland, represented by IP Twins, France.

Respondent is qiang hong, China.

2. The Domain Name and Registrar

The disputed domain name <breitlinger.com> is registered with Hong Kong Juming Network Technology Co., Ltd (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 9, 2022. On November 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 10, 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 Complainant on November 10, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on November 14, 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 Respondent of the Complaint, and the proceedings commenced on November 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 5, 2022. Respondent did not submit any response. Accordingly, the Center notified the Parties of Respondent’s default on December 9, 2022.

The Center appointed Ingrīda Kariņa-Bērziņa as the sole panelist in this matter on December 15, 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

Complainant is a Swiss maker of luxury watches. It is the proprietor of numerous trademark registrations for its BREITLING mark, including the following:

- International Trademark No. 160212 for BREITLING (device mark), registered on March 10, 1952 for goods in class 14;
- Chinese Trademark No. 5944329 for BREITLING (device mark), registered on November 14, 2013 for goods in class 14.

Complainant operates its primary business website at the domain name <breitling.com>.

The disputed domain name was registered on April 8, 2022. It does not resolve to an active website.

5. Parties' Contentions

A. Complainant

Complainant's contentions may be summarized as follows:

Under the first element, Complainant states that it was founded in 1884 by Léon Breitling in Saint-Imier, Switzerland. Complainant manufactures high-end chronographs, watches and related accessories, also precision-made chronometers for aviators. With stores and distributors on all continents, Complainant has a reputation as one of the best high-end luxury watchmakers worldwide. The disputed domain name is identical to Complainant's BREITLING mark, except for the addition of the letters "er".

Under the second element, Complainant states that Respondent is not commonly known by the disputed domain name and has acquired no trademark or service mark related to BREITLING or BREITLINGER. The disputed domain name reproduces Complainant's trademark without license or authorization from Complainant. Respondent's use of the disputed domain name or preparation to use the domain name does not demonstrate intent to use it in connection with a *bona fide* offering of goods or services. On the contrary, the disputed domain name is not used.

Under the third element, Complainant states that Complainant and its trademarks are so well-known that it is inconceivable that Respondent was unaware of Complainant's earlier rights in the mark BREITLING. Complainant's notoriety is evidenced, for example, by a large number of Facebook and Instagram followers. Complainant's rights in the BREITLING mark considerably predate the registration of the disputed domain name. Respondent likely registered the disputed domain name due to its similarity with Complainant's mark, in the hopes of attracting Internet visitors. Previous Panels have recognized that Complainant's mark is well known. Respondent is passively holding the disputed domain name in bad faith.

Complainant requests transfer of the disputed domain name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the UDRP requires Complainant to make out all three of the following:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;

(ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

A. Identical or Confusingly Similar

Complainant has provided evidence establishing that it has rights in the BREITLING trademark through registrations in China and internationally, among others. Complainant thereby satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.2.1.

In comparing Complainant’s mark with the disputed domain name, the Panel finds that the disputed domain name is confusingly similar to this trademark as the trademark is clearly recognizable within the disputed domain name, save for the addition of the letters “er.” The Panel considers that the addition of the letters “er” does not prevent a finding of confusing similarity between the disputed domain name and Complainant’s trademark. See [WIPO Overview 3.0](#), section 1.8.

It is the well-established view of UDRP panels that a generic Top-Level Domain such as “.com” is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. See [WIPO Overview 3.0](#), section 1.11.1.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a domain name by demonstrating any of the following:

(i) before any notice to it of the dispute, respondent’s use of, or demonstrable preparations to use the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or

(iii) 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 Panel finds that there is no evidence that Respondent is commonly known by the disputed domain name nor that it is using the BREITLING mark with the permission of Complainant.

The Panel therefore finds that the evidence submitted by Complainant establishes a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain name.

Pursuant to [WIPO Overview 3.0](#), section 2.1, and cases cited thereunder, where Complainant makes out a *prima facie* case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate

interests in the disputed domain name.

Respondent, in failing to file a response, has not submitted any evidence or arguments demonstrating such rights or legitimate interests, nor has it rebutted any of Complainant's contentions. The disputed domain name does not resolve to an active website. There is no evidence that the disputed domain name has been registered or is being used for legitimate noncommercial purposes. See [WIPO Overview 3.0](#), section 2.1, and cases cited thereunder.

Accordingly, the Panel finds that Complainant has established the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Pursuant to paragraph 4(b) of the Policy, the Panel finds that Complainant has demonstrated Respondent's bad faith registration of the disputed domain name. Complainant's rights in its BREITLING mark predate the registration of the disputed domain name by decades. The disputed domain name reflects Complainant's BREITLING mark together with the letters "er." The disputed domain name is therefore nearly identical to Complainant's BREITLING mark. The Panel finds that, by registering such a domain name, Respondent has attempted to create an association with Complainant's well-established mark.

The Panel further finds that Respondent has, on balance, demonstrated bad faith by passive holding of the disputed domain name. Such a finding is consistent with previous UDRP decisions, such as *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). See also [WIPO Overview 3.0](#), section 3.3. In particular, the disputed domain name reflects Complainant's registered BREITLING mark. Respondent has failed to provide any evidence of a connection to a legitimate business related to Complainant's marks. Respondent has failed to provide any evidence of actual or contemplated good-faith use of the disputed domain name. Under the circumstances, the Panel does not find any such use plausible.

The Panel therefore finds that Complainant has established the third element under paragraph 4(a) 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 <breitlinger.com> be transferred to Complainant.

/Ingrīda Kariņa-Bērziņa/

Ingrīda Kariņa-Bērziņa

Sole Panelist

Date: January 5, 2023