

ADMINISTRATIVE PANEL DECISION

ABG IZOD LLC v. Ndceg Ybdwh

Case No. D2022-4553

1. The Parties

The Complainant is ABG IZOD LLC, United States of America ("United States"), internally represented.

The Respondent is Ndceg Ybdwh, China.

2. The Domain Name and Registrar

The disputed domain name <geoffrey-beene.com> is registered with Name.com, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 29, 2022. On November 30, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 1, 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 December 1, 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 the same day.

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 December 12, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 1, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 5, 2023.

The Center appointed Miguel B. O'Farrell as the sole panelist in this matter on January 10, 2023. 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 was founded in 1963 by designer Geoffrey Beene and is involved primarily in the business of men's and women's apparel, footwear and accessories.

The Complainant claims to have a global trademark portfolio of more than 145 filings for GEOFFREY BEENE.

In particular, the Complainant owns the following trademark registrations:

United States Trademark Registration No. 2183725 for GEOFFREY BEENE, registered on August 25, 1998 in class 25;

United States Trademark Registration No. 5561324 for GEOFFREY BEENE, registered on September 11, 2018 in class 25;

United States Trademark Registration No. 3634563 for GEOFFREY BEENE, registered on June 9, 2009 in class 18 and

United States Trademark Registration No. 3634564 for GEOFFREY BEENE, registered on June 9, 2009.

The disputed domain name <geoffrey-beene.com> was registered by the Respondent on June 8, 2022, and resolves to a website offering similar goods to the GEOFFREY BEENE goods offered by the Complainant and possibly counterfeits thereof.

5. Parties' Contentions

A. Complainant

The Complainant's trademark GEOFFREY BEENE has been well-known for decades around the world and is currently the subject of a global licensing program for a variety of goods and services.

The disputed domain name is confusingly similar to the trademark GEOFFREY BEENE in which the Complainant has rights. The Respondent has no rights or legitimate interests in the disputed domain name, which was registered and is being used in bad faith.

More specifically, the Respondent is not affiliated with the Complainant in any way. Neither license nor authorization has been granted to the Respondent to make any use of or register a domain name with the Complainant's trademark GEOFFREY BEENE. The Respondent is not commonly known by the disputed domain name and is not making a legitimate fair use or legitimate noncommercial use of the disputed domain name.

The Respondent is selling counterfeit GEOFFREY BEENE goods in an attempt to pass off the website to which the disputed domain name resolves as an official website of the Complainant to confuse Internet users for commercial gain.

Finally, the Complainant has requested the Panel to issue a decision ordering the transfer of the disputed domain name to the Complainant.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (i) the disputed domain name is identical or confusingly similar with a trademark or service mark in which the Complainant 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.

A. Identical or Confusingly Similar

As set forth in section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name to determine whether the disputed domain name is confusingly similar with the trademark. The test involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The Panel considers that the disputed domain name is confusingly similar to the Complainant's GEOFFREY BEENE trademark.

The disputed domain name incorporates the Complainant's trademark GEOFFREY BEENE separated by a hyphen, which does not prevent a finding of confusing similarity.

The ".com" generic Top-Level Domain ("gTLD") is viewed as a standard registration requirement and is generally disregarded under the first element confusing similarity test, as set forth in section 1.11 of [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the trademark GEOFFREY BEENE in which the Complainant has rights and that the requirements of paragraph 4(a)(i) of the Policy are fulfilled.

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 non-exclusive defenses:

- (i) before any notice to it of the dispute, the 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) the respondent has been commonly known by the domain name, even if it has acquired no 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.

Although the Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name, it is well established, as it is put in section 2.1 of [WIPO Overview 3.0](#), that a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

There is no evidence in the present case that the Respondent has been commonly known by the disputed domain name, enabling it to establish rights or legitimate interests therein.

Furthermore, there is no evidence in the file to prove any of the circumstances mentioned in paragraph 4(c) of the Policy, nor any other circumstances to suggest that the Respondent has rights or legitimate interests in the disputed domain name.

Likewise, and as further discussed under section 6.C of this decision, it does not seem that the Respondent is making any legitimate noncommercial or fair use of the disputed domain name, but rather that it intends to use the disputed domain name for the purpose of deriving unfair monetary advantage by confusing Internet users and leading them to believe that the site to which the disputed domain name relates is an official site of the Complainant.

As established in section 2.5 of [WIPO Overview 3.0](#): “Fundamentally, a respondent’s use of a domain name will not be considered ‘fair’ if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and the complainant’s mark is often central to this inquiry.” Here, the nature of the disputed domain name carries a high risk of implied affiliation.

The Panel finds that the Complainant has made out a *prima facie* case, a case calling for an answer from the Respondent. The Respondent has not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name (*Telstra Corporation Ltd. v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy have been fulfilled.

C. Registered and Used in Bad Faith

The Panel is satisfied that the Respondent must have been aware of the Complainant’s trademark GEOFFREY BEENE mentioned in section 4 above (Factual Background) when it registered the disputed domain name on June 8, 2022. By that time, the Complainant’s trademark had been registered and used for decades.

By registering the disputed domain name, the Panel finds that the Respondent was targeting the Complainant and its business by incorporating the Complainant’s distinctive trademark GEOFFREY BEENE with the two words separated by a hyphen. Very likely, Internet users will be lead to believe that the website to which the disputed domain resolves belongs to or is affiliated with the Complainant, particularly since they both offer the same type of goods.

The fact that there is a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent’s choice of the disputed domain name, the nature of the disputed domain name, the use of the disputed domain name to resolve to a website offering similar and possibly counterfeits of the Complainant’s garments are indications of bad faith (as stated in section 3.2.1 of the [WIPO Overview 3.0](#)).

The Panel therefore finds that the Respondent registered and is using the disputed domain name in bad faith.

For the above reasons, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy have been

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 <geoffrey-beene.com> be transferred to the Complainant.

/Miguel B. O'Farrell/

Miguel B. O'Farrell

Sole Panelist

Date: January 18, 2023