

ADMINISTRATIVE PANEL DECISION

Bobo Choses, S.L. v. Jianhua22 Shao
Case No. D2022-4858

1. The Parties

The Complainant is Bobo Choses, S.L., Spain, represented by March Trade Mark, S.L., Spain.

The Respondent is Jianhua22 Shao, China.

2. The Domain Name and Registrar

The disputed domain name <bobochooses-shop.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 December 19, 2022. On December 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 20, 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 sent an email communication to the Complainant on December 21, 2022, providing the further registrant and contact information disclosed by the Registrar. The Complainant filed the amended Complaints on January 5, 2023, and January 9, 2023 respectively, correcting the Mutual Jurisdiction.

The Center verified that the Complaint together with the amended Complaints 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 January 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 29, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 30, 2023.

The Center appointed Alistair Payne as the sole panelist in this matter on February 3, 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 has since 2008 operated a Spanish based clothing brand for children and now also for adults. It owns the domain name <bobochooses.com> from which it offers its clothing products. It also owns various trade mark registrations including European Union trade mark registration number 005871348 for BOBO CHOSSES, registered on February 29, 2008 and Chinese trade mark registration number 13072200 for BOBO CHOSSES, registered on February 28, 2016.

The Respondent is based in China and the disputed domain name was registered on July 5, 2022. It resolves to a website on which clothing is offered for sales under the BOBO CHOSSES trade mark.

5. Parties' Contentions

A. Complainant

The Complainant submits that it owns registered trade mark rights for its BOBO CHOSSES mark as noted above and that its trade mark is wholly incorporated into the disputed domain name.

The Complainant says that the Respondent has registered the disputed domain name without its consent and that based on its searches the Respondent does not hold any trade mark rights in the disputed domain name. It further says that the Respondent must have registered the disputed domain name with full knowledge of the Complainant's trade mark and business based on the fact that the disputed domain name resolves to a website that looks very similar to the Complainant's website at "www.bobochooses.com" and uses images from that website and falsely asserts that it sells clothing under the BOBO CHOSSES trade mark when this has not been authorised and the clothes offered have not been manufactured by the Complainant. Further, says the Complainant, when purchasers order and pay for goods on the Respondent's website, the purchased products are never delivered. This says the Complainant is not *bona fide* conduct and is entirely inconsistent with the Respondent having rights or legitimate interests in the disputed domain name.

This conduct says the Complainant amounts to registration and use in bad faith of the disputed domain name and the Respondent's use of the disputed domain name and the fraudulent website to which it resolves is causing enormous damages to the Complainant's reputation and business.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated that it owns registered trade mark rights for its BOBO CHOSSES mark and in particular European Union trade mark registration 005871348. The disputed domain name wholly incorporates the Complainant's trade mark and is therefore confusingly similar to it. The addition of a dash and the word "shop" after the BOBO CHOSSES mark in the disputed domain name does not prevent a finding of confusing similarity. As a result, the Panel finds that the Complaint succeeds under the first element of the Policy.

B. Rights or Legitimate Interests

The Complainant has submitted that the Respondent has registered the disputed domain name without its consent and that based on its searches the Respondent does not hold any trade mark rights in the disputed domain name. It has further asserted that the Respondent registered the disputed domain name with full

knowledge of the Complainant's trade mark and business based on the fact that the disputed domain name resolves to a website that looks very similar to the Complainant's website at "www.bobochooses.com" and uses images from that website. The Panel notes that the website at the disputed domain name purports to sell clothing under the BOBO CHOSSES trade mark and uses this mark as if it was the Complainant. The Complainant has asserted that it has never authorised such use and that the clothes offered on the website are not manufactured by the Complainant. The Complainant has also submitted that when purchasers order and pay for goods on the Respondent's website the purchased products are never delivered, although it has provided no evidence to support this allegation.

The Panel finds that the Complainant has made out a *prima facie* case that the Respondent has no rights or legitimate interests in any of the disputed domain names. The Respondent has failed to respond to or to rebut the Complainant's case and therefore the Panel finds that the Complaint also succeeds under this element of the Policy.

C. Registered and Used in Bad Faith

The disputed domain name was registered in middle 2022 many years after the Complainant's registration of its BOBO CHOSSES trade mark. The BOBO CHOSSES trade mark is a highly distinctive mark and appears to have developed some degree of reputation since the Complainant's original establishment of its business in 2008. The fact that the disputed domain name resolves to a website that purports to be owned by or associated with the Complainant and which uses the BOBO CHOSSES mark and images from the Complainant's website and purports to offer clothing products under the mark creates a very strong inference that the Respondent was very well aware of the BOBO CHOSSES mark and the Complainant's business at the time of registration of the disputed domain name.

Under paragraph 4(b)(iv) of the Policy there is evidence of registration and use of the disputed domain name in bad faith where a Respondent has used the disputed domain name to intentionally attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trade marks as to the source, sponsorship, affiliation or endorsement of the website.

It is apparent that the Respondent has registered and is using the disputed domain name intentionally for the purpose of re-directing Internet users to a website that purports to masquerade as if it is the Complainant's or is associated with the Complainant and which offers products under the BOBO CHOSSES mark in order to confuse Internet users into thinking that they are dealing with the Complainant or its authorised supplier when this is not the case. This is obviously for the commercial benefit of the Respondent and is the classic sort of conduct that the Policy sets out to proscribe. The Panel finds that such use fulfils the requirements of paragraph 4(b)(iv) of the Policy and is evidence of registration and use of the disputed domain name in bad faith. Accordingly, the Complaint also succeeds under this element 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 <bobochooses-shop.com> be transferred to the Complainant.

/Alistair Payne/

Alistair Payne

Sole Panelist

Date: February 12, 2023