

ADMINISTRATIVE PANEL DECISION

Trapstar Collective Limited v. Aamir Ali
Case No. D2023-0719

1. The Parties

The Complainant is Trapstar Collective Limited, United Kingdom, represented by Fieldfisher LLP, United Kingdom.

The Respondent is Aamir Ali, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <trapstarshop.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 16, 2023. On February 17, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 17, 2023, 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 (Privacy Service Provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 20, 2023 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 February 20, 2023.

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 February 22, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 15, 2023.

The Center appointed William Lobelson as the sole panelist in this matter on March 21, 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 is Trapstar Collective Limited, involved in the design and retail of streetwear collections. It owns and uses a number of trademark registrations for TRAPSTAR:

European Union Trademark Registration No 013149794 for TRAPSTAR, registered in Classes 3, 9, 14, 16, 18, 25 and 35, filed on August 6, 2014 and registered on December 30, 2014;

United Kingdom Trade Mark Registration No. UK00913149794 for TRAPSTAR, registered in Classes 3, 9, 14, 16, 18, 25 and 35, filed on August 6, 2014 and registered on December 30, 2014;

United Kingdom Trade Mark Registration No. UK00003817822 for TRAPSTAR device, registered in Classes 18, 25 and 35, filed on August 8, 2022 and registered on October 28, 2022;

United Kingdom Trade Mark Registration No. UK00002630632 for TRAPSTAR device, registered in Classes 14, 18 and 25, filed on August 4, 2012 and registered on September 20, 2013;

United Kingdom Trade Mark Registration No. UK00003009252 for TRAPSTAR device, registered in Classes 14, 18 and 25, filed on June 10, 2013 and registered on October 18, 2013;

United Kingdom Trade Mark Registration No. UK00003009256 for TRAPSTAR device, registered in Classes 14, 18 and 25, filed on June 10, 2013 and registered on October 18, 2013; and

United States of America Trademark Registration No. 4704161 for TRAPSTAR, registered in Class 25, filed on August 10, 2012 and registered on March 17, 2017.

The disputed domain name was registered on August 30, 2021. It routes to an active website where products bearing the Complainant's trademark are offered for sale.

5. Parties' Contentions

A. Complainant

The Complainant claims that the disputed domain name is confusingly similar to its earlier trademarks, that the Respondent has no rights or legitimate interests in the disputed domain name, and that the disputed domain name has been registered and is being used in bad faith. The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

Notwithstanding the default of the Respondent, it remains incumbent on the Complainant to make out its case in all respects under the Rules set out in paragraph 4(a) of the Policy. Namely, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (paragraph 4(a)(i));
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name (paragraph 4(a)(ii)); and
- (iii) the disputed domain name has been registered and is being used in bad faith (paragraph 4(a)(iii)).

A. Identical or Confusingly Similar

The Complainant is the owner of a number of TRAPSTAR trademarks, all registered and used before the date when the disputed domain name was registered.

The disputed domain name is <trapstarshop.com>. It reproduces the Complainant's trademark TRAPSTAR in its entirety.

Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise), in this case the term "shop" would not prevent a finding of confusing similarity under the first element; see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Furthermore, the addition of the generic Top-Level Domain ("gTLD") ".com" is a standard registration requirement and as such does not prevent a finding of confusing similarity.

The disputed domain name therefore is confusingly similar to the Complainant's earlier registered trademark TRAPSTAR.

Consequently, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

To demonstrate rights or legitimate interests in a domain name, non-exclusive respondent defenses under UDRP, paragraph 4(c) include the following:

- (i) before any notice of the dispute, the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods and services;
- (ii) the Respondent (as an individual, business or other organization) has been commonly known by the disputed domain name, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel notes that the Respondent has not filed a Response and thus did not deny the Complainant's assertions, nor brought any information or evidence for demonstrating any rights or legitimate interests.

The Complainant contends that the Respondent does not have any rights or legitimate interests in the disputed domain name, particularly by asserting that the Respondent is not affiliated with it in any way and that it never authorized the Respondent to use its trademark as part of the disputed domain name.

The Complainant highlights that the disputed domain name routes towards an active website where products branded with its trademark are offered for sale. A comparison of the Complainant's website and the

Respondent's reflects that some images and photographs of the Complainant's products, as published in its own website, are reproduced in the Respondent's.

The Complainant claims that the Respondent is not engaged in a *bona fide* commercial use of the disputed domain name for its website would be fictitious - the Complainant uses the term "scam", presumably to indicate that the Respondent would not run any real business, and that the Respondent website is "infringing".

The Panel also notices that the disputed domain name is formed with the Complainant's trademark (*i.e.*, it is inherently misleading), and that the related website does not contain any disclaimer that the same is not run by the Complainant, as sole trademark owner and manufacturer of the trademarked products.

Even if the Respondent was an unauthorized but legitimate reseller of the Complainant's goods, it should have inserted in its website a clear disclaimer informing the public that it is not the manufacturer of the good, but only a distributor, all the more since the disputed domain name induces that the same is related to the official online store of the Complainant (see section 2.5.1 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#))).

It is a consensus view among UDRP panels that a reseller or distributor can be making a *bona fide* offering of goods and services and thus have a legitimate interest in the domain name if its use meets certain requirements. These requirements normally include the actual offering of goods and services at issue, the use of the site to sell only the trademarked goods, and the site's accurately and prominently disclosing the registrant's relationship with the trademark holder.

See: *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#); and *ITT Manufacturing Enterprises, Inc., ITT Corporation v. Douglas Nicoll, Differential Pressure Instruments, Inc.*, WIPO Case No. [D2008-0936](#).

In the present matter, in the absence of any disclaimer and the nature of the disputed domain name, and taking into account the contentions of the Complainant, that the Respondent has not contested, the Panel finds that the Complainant has met the requirement under the Policy of showing that the Respondent does not have any rights or legitimate interests in the disputed domain name.

Accordingly, the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

There is no doubt in the present matter that the Respondent had the Complainant's trademark in mind when it registered the disputed domain name, as the Respondent's website does exhibit apparel bearing the Complainant's trademark and device marks.

The Panel further observes that the Respondent used a privacy registration service, and finds many inconsistencies in the information published on the Respondent's website.

It is a consensus view among panels that although use of a privacy or proxy registration service is not in and of itself an indication of bad faith, the manner in which such service is used can in certain circumstances constitute a factor indicating bad faith. For example, registrant use of a privacy service in combination with provision of incomplete contact information to such service or a continued concealment of the "true" or "underlying" registrant may be evidence of bad faith.

It is also noted that the communications that the Center tried to send to the Respondent via email and overnight courier, could not be delivered. The declared email and street addresses being apparently inactive and/or non-existent.

From the above, the Panel is able to conclude that the Respondent is concealing its identity and has provided inaccurate details not only when it sought to register the disputed domain name but also on the

website to which the disputed domain name directs, thus making impossible for Internet users to make contact with it.

It is also noted that the Respondent's website is confusing as it can be construed by the Internet users as the genuine online store of the Complainant. As stated above, the said website does not contain any disclaimer informing the public that the Respondent is not the original manufacturer of the trademarked goods.

The Respondent is thus making a misleading and possible fraudulent use of the Complainant's trademarks and images of products, with a view to diverting traffic to its own profit.

For all above reasons, the Panel finds that the disputed domain name has been registered and is being used in bad faith.

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 <trapstarshop.com> be transferred to the Complainant.

/William Lobelson/
William Lobelson
Sole Panelist
Date: April 4, 2023