

ADMINISTRATIVE PANEL DECISION

Lymi, Inc. v. Client Care, Web Commerce Communications Limited
Case No. D2023-3313

1. The Parties

The Complainant is Lymi, Inc., United States of America (“United States”), represented by Lane IP Limited, United Kingdom.

The Respondent is Client Care, Web Commerce Communications Limited, Malaysia.

2. The Domain Name and Registrar

The disputed domain names <reformationaustralia.com>, <reformationbelgie.com>, <reformationclothingstore.com>, <reformationdresscz.com>, <reformationdressessale.com>, <reformationdressesuk.com>, <reformationdubai.com>, <reformationespana.com>, <reformationfrance.com>, <reformationgreece.com>, <reformationitalia.com>, <reformationkleiddeutschland.com>, <reformationkleiderschweiz.com>, <reformationksa.com>, <reformationmexico.com>, <reformationnederland.com>, <reformationnorge.com>, <reformationosterreich.com>, <reformationsingapore.com>, <sukienkireformation.com>, <thereformationcanada.com>, <thereformationireland.com>, <thereformationjapan.com>, <thereformationnz.com>, <thereformationphilippines.com>, <thereformationportugal.com>, and <thereformationsuomi.com> are registered with <Alibaba.com> Singapore E-Commerce Private Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 2, 2023. On August 2, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On August 4, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Private) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 18, 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 September 1, 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 September 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 21, 2023. On September 1, 2023, the Center received email communications as automatic replies from the Respondent. The Respondent did not submit any formal response. Accordingly, on October 2, 2023, the Center notified the Parties of the Commencement of Panel Appointment process.

The Center appointed Louis-Bernard Buchman as the sole panelist in this matter on October 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 is a company founded in California in 2009, active in clothes and apparel online sales worldwide, with its own clothes factory in Los Angeles since 2013, using sustainable materials and methods and eco-friendly technologies in producing apparel and accessories. In addition to its 20 stores in the United States, the Complainant expanded internationally with stores in Toronto and London.

The Complainant owns a portfolio of registered trademarks containing the term “reformation”, including the United States trademark No. 4111272 for REFORMATION, registered on March 13, 2012; the European Union trade mark No. 1351244 for REFORMATION, registered on March 3, 2017; and the International trademark No. 1351244 for REFORMATION, registered on March 3, 2017 (together hereinafter referred to as “the Mark”).

The Complainant owns *inter alia* the domain name <thereformation.com>, registered on March 10, 2004, resolving to its official website since 2011, and the domain name <reformation.us>, registered on September 15, 2015.

The disputed domain names were all registered on February 21, 2023, and all resolved to commercial websites offering clothing for sale, featuring copyrighted images from the Complainant’s official website.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainant contends that the disputed domain names reproduce the Mark, in which it has rights, and are confusingly similar to the Mark insofar as the disputed domain names contain the Mark in its entirety with the addition of either geographical terms, e.g., “ksa” (for Kingdom of Saudi Arabia), or terms related to clothing in various languages, e.g., “sukienki” (meaning “dresses” in Polish), or a combination of country names or codes and terms relating to clothing, e.g., “dressesuk”. These differences are alleged not to be capable of dispelling the confusing similarity, as the Mark remains recognizable in the disputed domain names.

The Complainant also contends that the Respondent has no rights or legitimate interests in respect of the disputed domain names and never had any affiliation with the Complainant (which never authorized the Respondent to use the Mark in any manner).

Furthermore, the Complainant contends that the Respondent had knowledge of the Mark, and that it registered the disputed domain names in bad faith, and is also using them in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1. Procedural Aspects - Failure to respond

As aforementioned, no Response was received from the Respondent.

Under the Rules, paragraphs 5(f) and 14(a), the effect of a default by the Respondent is that, in the absence of exceptional circumstances, the Panel shall proceed to a decision on the basis of the Complaint.

The Panel does not find any exceptional circumstance in this case which would cause the Panel to proceed differently.

Under paragraph 4(a) of the Policy, it is the Complainant's burden to establish that all three of the required criteria for a transfer of the disputed domain names have been met, even in the event of a default.

Under paragraph 14(b) of the Rules, the Panel is empowered to draw such inferences from the Respondent's default as it considers appropriate under the circumstances.

In this case, the Panel finds that as a result of the default, the Respondent has failed to rebut any of the reasonable factual assertions that are made and supported by evidence submitted by the Complainant. In particular, by defaulting and failing to respond, the Respondent has failed to offer the Panel any of the types of evidence set forth in paragraph 4(c) of the Policy or otherwise, from which the Panel might conclude that the Respondent has any rights or legitimate interests in the disputed domain names, such as making legitimate noncommercial or fair use of the disputed domain names.

Moreover, as discussed below, the Respondent has failed to provide any exculpatory information or reasoning that might have led the Panel to question the Complainant's arguments that the Respondent has acted in bad faith.

6.2. Requirements of paragraph 4(a) of the Policy

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain names. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the Mark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms in the disputed domain names, such as "belgie" or "clothingstore", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Regarding the generic Top-Level Domain (“gTLD”) “.com” in all the disputed domain names, it is well established that a gTLD does not generally affect the assessment of a domain name for the purpose of determining identity or confusingly similarity. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, the Panel finds that the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

Based on the available record, the Panel finds that the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that by registering the disputed domain names and using them to direct Internet users to websites displaying the Mark and copyrighted images of the Complainant’s official website, the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Mark.

Furthermore, it is well-established in prior UDRP decisions that where the respondent knew or should have known of a trademark prior to registering the disputed domain name, such conduct may be, in certain circumstances, evidence of bad faith registration. See *Weetabix Limited v. Mr. J. Clarke*, WIPO Case No. [D2001-0775](#).

In this case, considering the duration of the use in commerce of the Mark, the size of the Complainant’s current operations and the fact that the Respondent’s websites featured the Mark and copyrighted images from the Complainant’s official website, the Panel finds it impossible to believe that the Respondent chose to register the disputed domain names randomly with no knowledge of the Mark. See *Barney’s Inc. v. BNY Bulletin Board*, WIPO Case No. [D2000-0059](#); *Kate Spade, LLC v. Darmstadter Designs*, WIPO Case No. [D2001-1384](#), citing *Cellular One Group v. Paul Brien*, WIPO Case No. [D2000-0028](#); and *Sembcorp Industries Limited v. Hu Huan Xin*, WIPO Case No. [D2001-1092](#).

Finally, some UDRP panels have held that in certain circumstances, registrants of domain names would have a duty to abstain from registering and using a domain name, which is either identical or confusingly similar to a prior trademark held by others and which would infringe upon or otherwise violate the rights of a third party. See Policy, paragraph 2(b); *Nike, Inc. v. B B. de Boer*, WIPO Case No. [D2000-1397](#); *Nuplex Industries Limited v. Nuplex*, WIPO Case No. [D2007-0078](#); *Mobile Communication Service Inc. v. WebReg, RN*, WIPO Case No. [D2005-1304](#); *BOUYGUES v. Chengzhang, Lu Ciagao*, WIPO Case No. [D2007-1325](#); *Media General Communications, Inc. v. Rarenames, WebReg*, WIPO Case No. [D2006-0964](#); and *mVisible Technologies, Inc. v. Navigation Catalyst Systems, Inc.*, WIPO Case No. [D2007-1141](#).

Based on the available record, the Panel finds that the third element of the Policy has been established.

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 names <reformationaustralia.com>, <reformationbelgie.com>, <reformationclothingstore.com>, <reformationdresscz.com>, <reformationdressessale.com>, <reformationdressesuk.com>, <reformationdubai.com>, <reformationespana.com>, <reformationfrance.com>, <reformationgreece.com>, <reformationitalia.com>, <reformationkleiddeutschland.com>, <reformationkleiderschweiz.com>, <reformationksa.com>, <reformationmexico.com>, <reformationnederland.com>, <reformationnorge.com>, <reformationosterreich.com>, <reformationssingapore.com>, <sukienkireformation.com>, <thereformationcanada.com>, <thereformationireland.com>, <thereformationjapan.com>, <thereformationnzz.com>, <thereformationphilippines.com>, <thereformationportugal.com>, and <thereformationsuomi.com> be transferred to the Complainant.

/Louis-Bernard Buchman/

Louis-Bernard Buchman

Sole Panelist

Date: October 12, 2023