

ADMINISTRATIVE PANEL DECISION

Verband der Automobilindustrie e.V. v. Thanet Prawetthongsopon
Case No. D2024-2198

1. The Parties

The Complainant is Verband der Automobilindustrie e.V., Germany, represented by Kroher Strobel Rechts- und Patentanwälte PartmbB, Germany.

The Respondent is Thanet Prawetthongsopon, Thailand.

2. The Domain Name and Registrar

The disputed domain name <thaiadblue.com> (the “Domain Name”) is 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 May 29, 2024. On May 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 31, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Alibaba.com Singapore E-Commerce Private Ltd.) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 31, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed amended Complaints on June 3, 2024, and June 13, 2024.

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 June 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 3, 2024. The Respondent did not submit any response. However, an email from Third Party was received on May 31, 2024, stating: “Please proceed”. Furthermore, email communications from another Third Party were received on June 18, June 19, June 20, June 21, June 27, and June 28, 2024. Accordingly, the Center notified Commencement of Panel Appointment Process on July 4, 2024.

The Center appointed Piotr Nowaczyk as the sole panelist in this matter on July 11, 2024. 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 an interest group of the German automotive industry, including automobile manufacturers and automobile component suppliers. The Complainant actively pursues the interests of the German automotive industry in sectors such as the aftermarket, electric mobility, logistics and customs and excise.

ADBLUE is a trademark used for urea that reduces the NOX emissions of diesel engines, particularly in the field of commercial and heavy goods vehicles. The Complainant is entrusted with protecting and enforcing this trademark on a worldwide scale. It has established a licensing system for companies in the chemical industry who manufacture and supply urea.

The Complainant is the owner of numerous ADBLUE trademark registrations, including:

- the International Trademark Registration for ADBLUE (word) No. 1042880, registered on May 18, 2010;
- the International Trademark Registration for ADBLUE (word) No. 811899, registered on August 8, 2003; and
- the European Union Trade Mark Registration for ADBLUE (word) No. 003945938, registered on February 6, 2006.

The Domain Name was registered on November 6, 2023.

At the time of submitting the Complaint, the Domain Name resolved to a website purportedly offering products bearing the ADBLUE trademark in Thailand (the "Website").

As of the date of this Decision, the Domain Name does not resolve to any active 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 Domain Name.

First, the Complainant contends that the Domain Name is identical or confusingly similar to the ADBLUE trademark in which the Complainant has rights.

Second, the Complainant argues that the Respondent has neither rights nor legitimate interests in the Domain Name.

Third, the Complainant submits that the Domain Name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Matters

As noted above, the Center formally notified the Respondent of the Complaint and the proceedings commenced on June 13, 2024. The due date for Response was July 3, 2024.

On May 31, 2024, an email communication from Third Party was received, stating: "Please proceed".

The Center responded to the above email communication on June 7, 2024. The Center noted the identity of the Respondent in these proceedings and informed that the Respondent could clarify her/his relationship (if any) with the above Third Party in the context of the proceedings. In addition, the Third Party was requested to identify herself or himself, clarifying her/his relationship (if any) to the Respondent.

On June 18, 2024, the further email communication from another Third Party was received, requesting additional information about the proceedings.

The Center responded to the above email communication on June 18, 2024. The Center again noted the identity of the Respondent and requested the Third Party to identify herself or himself, clarifying her/his relationship (if any) to the Respondent. The Center also referred to the attached case file for the relevant information on the proceedings.

On June 19, 2024, further email communication from the Third Party was received, acknowledging that the Domain Name "may be related to the trademark infringement" and stating that the use of the Domain Name would be terminated by the end of June 2024.

Further email communications from the same Third Party regarding the termination of use of the Domain Name were received on June 19, June 20, June 21, June 27, and June 28, 2024.

On July 4, 2024, the Center informed the Parties, as well as the Third Party which sent the above email communications, that the due date for Response was July 3, 2024, and that the Center would proceed to Panel Appointment.

Having considered the content of the email communications received from the Third Parties in this proceeding, the Panel notes that no satisfactory response to the request of the Center regarding the identity and relationship to the Respondent of these Third Parties were received. Thus, the Panel finds that the Respondent did not submit any response to the Complainant in these proceedings.

Accordingly, the Panel proceeds with rendering this Decision.

6.2. Substantive Matters – Three Elements

Paragraph 4(a) of the Policy places a burden on the Complainant to prove the presence of three separate elements, which can be summarized as follows:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

The requested remedy may only be granted if the above criteria are met. At the outset, the Panel notes that the applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence". See section 4.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

A. Identical or Confusingly Similar

Under the first element, the Complainant must establish that the Domain Name is identical or confusingly similar to the trademark in which the Complainant has rights.

The Complainant holds valid ADBLUE trademark registrations. The Domain Name incorporates this trademark in its entirety. As numerous UDRP panels have held, incorporating a trademark in its entirety is sufficient to establish that a domain name is identical or confusingly similar to that trademark (see *PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.) and EMS COMPUTER INDUSTRY (a/k/a EMS)*, WIPO Case No. [D2003-0696](#)).

The addition of the term “thai” in the Domain Name does not prevent a finding of confusing similarity between the Domain Name and the Complainant’s ADBLUE trademark. Panels have consistently held that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. See section 1.8 of the [WIPO Overview 3.0](#).

The Top-Level Domain (“TLD”) “.com” in the Domain Name is viewed as a standard registration requirement and as such is disregarded under the first element test. See section 1.11.1 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the Domain Name is confusingly similar to the Complainant’s ADBLUE trademark for purposes of the Policy. Thus, the Complainant has satisfied the requirements under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under the second element, the Complainant must prove that the Respondent has no rights or legitimate interests in the Domain Name.

The Respondent may establish a right or legitimate interest in the Domain Name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

- (i) that it has used or made 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 prior to the dispute; or
- (ii) that it is commonly known by the Domain Name, even if it has not acquired any trademark rights; or
- (iii) that it 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.

Although given the opportunity, the Respondent has not submitted any evidence indicating that any of the circumstances foreseen in paragraph 4(c) of the Policy are present in this case.

On the contrary, it results from the evidence on record that the Complainant’s ADBLUE trademark registrations predate the Respondent’s registration of the Domain Name. There is no evidence in the case record that the Complainant has licensed or otherwise permitted the Respondent to use the ADBLUE trademark or to register the Domain Name incorporating this trademark. There is also no evidence to suggest that the Respondent has been commonly known by the Domain Name.

Moreover, it results from the evidence on record that the Respondent does not make use of the Domain Name in connection with a bona fide offering of goods or services, nor does it make a legitimate noncommercial or fair use of the Domain Name. On the contrary, at the time of submitting the Complaint, the Domain Name resolved to the Website purportedly offering for sale the products under the ADBLUE trademark in Thailand. Such use of the Domain Name does not confer rights or legitimate interests on the Respondent.

The Respondent could make a bona fide offering of goods and services as a reseller or distributor of the products bearing the Complainant’s ADBLUE trademark, and thus have a legitimate interest in the Domain

Name, if this use meets certain requirements as set out in *Oki Data Americas, Inc. v ASD, Inc.*, WIPO Case No. [D2001-0903](#). These requirements are that: (1) the Respondent must actually be offering the goods or services at issue; (2) the Respondent must use the Website to sell only the trademarked goods or services, otherwise, it could be using the trademark to bait Internet users and then switch them to other goods or services; (3) the Website must accurately disclose the Respondent's relationship with the trademark owner; and (4) the Respondent must not try to corner the market in all domain names, thus depriving the trademark owner of reflecting its own mark in the Domain Name.

In the present case, the above referred requirements are not met. The Domain Name and the Website suggest at least an affiliation with the Complainant and its ADBLUE trademark. This finding is supported by the content of the "about us" section on the Website, stating that the company offering the products through the Website is an importer and distributor of the ADBLUE products which have been certified by the Complainant. Thus, the Panel believes that the use of the Complainant's trademark in the Domain Name and on the Website, as well as the information displayed on the Website, misleads consumers regarding the relationship between the Respondent and the Complainant, as Internet users may falsely believe that the Respondent is an entity associated with the Complainant. At the same time, the relationship between the Respondent and the Complainant is not properly disclosed on the Website. This further perpetuates the false impression of a relationship between the Respondent and the Complainant.

Given the above, the Respondent has failed to invoke any circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in respect of the Domain Name. Thus, there is no evidence in the case file that refutes the Complainant's prima facie case. The Panel concludes that the Complainant has also satisfied the requirement under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under the third element, the Complainant must prove that the Domain Name has been registered and is being used in bad faith.

Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. See section 3.1 of the [WIPO Overview 3.0](#).

Under paragraph 4(b) of the Policy, evidence of bad faith registration and use includes without limitation:

- (i) circumstances indicating the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the owner of a trademark or to a competitor of the trademark owner, for valuable consideration in excess of the documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the domain name was registered in order to prevent the owner of a trademark from reflecting the mark in a corresponding domain name, provided it is a pattern of such conduct; or
- (iii) circumstances indicating that the domain name was registered primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the domain name has intentionally been used in an attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with a trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on a website or location.

As indicated above, the Complainant's rights in the ADBLUE trademark predate the registration of the Domain Name. This Panel finds that the Respondent was or should have been aware of the Complainant's trademark at the time of registration. This finding is supported by the content of the Website allegedly offering for sale the products bearing the Complainant's ADBLUE trademark. Moreover, it has been proven to the Panel's satisfaction that the Complainant's ADBLUE trademark is well known and unique to the Complainant. Thus, the Respondent could not reasonably likely ignore the reputation of goods and services under this trademark. In sum, the Respondent in all likelihood registered the Domain Name with the expectation of taking advantage of the reputation of the Complainant's ADBLUE trademark.

Furthermore, as previously noted, the Domain Name has been used in bad faith by the Respondent to resolve Internet users to the Website. The Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to this Website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Website.

For the reasons discussed above, the Panel finds that the Complainant has satisfied the requirements under paragraph 4(a)(iii) 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 Domain Name <thaiadblue.com> be cancelled.

/Piotr Nowaczyk/

Piotr Nowaczyk

Sole Panelist

Date: July 25, 2024.