

ADMINISTRATIVE PANEL DECISION

Capri S.r.l. v. eee qeqe, dasdhuighjbvhjbhjb and a l
Case No. D2024-2471

1. The Parties

Complainant is Capri S.r.l., Italy, represented by Spheriens, Italy.

Respondents are eee qeqe, dasdhuighjbvhjbhjb and a l, China.

2. The Domain Names and Registrars

The disputed domain name <gutteridge-outlet.shop> is registered with Web Commerce Communications Limited dba WebNic.cc.

The disputed domain name <gutteridge.site> is registered with Gname.com Pte. Ltd.

(Web Commerce Communications Limited dba WebNic.cc and Gname.com Pte. Ltd. are hereinafter referred to as the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on June 18, 2024. On June 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On June 18 and June 19, 2024, respectively, 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 (Gname.com Pte. Ltd. and Web Commerce Communication Ltd.) and contact information in the Complaint.

The Center sent an email communication to Complainant on June 21, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar(s), requesting Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. Complainant filed an amended Complaint in English on June 26, 2024.

On June 21, 2024, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name <gutteridge.site> is Chinese. On June 24, 2024, Complainant requested English to be the language of the proceeding. Respondent did not submit any comment on Complainant's submission.

The Center verified that the Complaint together with the amended 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 Respondent in English and Chinese of the Complaint, and the proceedings commenced on July 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 21, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on July 22, 2024.

The Center appointed Yijun Tian as the sole panelist in this matter on July 31, 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

A. Complainant

Complainant, Capri S.r.l., is a company incorporated in Italy. Founded in 1988, it is an Italian fashion company that markets globally through online platforms, distributors, and flagship stores. The Complainant contends that its trademark GUTTERIDGE is well-known. It has 211 stores in six countries, 1,600 employees, and a EUR 250 million turnover.

Complainant has rights in the GUTTERIDGE related marks. Complainant is the owner of numerous GUTTERIDGE trademarks worldwide, including the Italian trademark registration for GUTTERIDGE ITALIA, registered on June 4, 2010 (registration number: 0001302952); the European Union Trade Mark registration for GUTTERIDGE, registered on June 12, 2020 (registration number: 017851742); and the International trademark registration for GUTTERIDGE, registered on August 11, 2020 (registration number: 1561590).

B. Respondents

Respondents are eee qeqe, dasdhuighjbvbjbhjb and a I, both with physical addresses in China.

The disputed domain name <gutteridge-outlet.shop> was registered by a I, on March 22, 2024.

The disputed domain name <gutteridge.site> was registered by eee qeqe, dasdhuighjbvbjbhjb, on April 3, 2024.

According to the Complaint and relevant evidence provided by Complainant, the disputed domain names <gutteridge-outlet.shop> and <gutteridge.site> were resolved to a website where women and men's clothing products are sold. Previously, they directed to a website purporting to be the official "Gutteridge" website, copying its structure, pictures, and videos.

5. Parties' Contentions

A. Complainant

Complainant contends that the disputed domain names are identical or confusingly similar to a trademark or

service mark in which Complainant has rights. The disputed domain name <gutteridge-outlet.shop> integrates the trademark entirely. The extra term “outlet” and the generic Top-Level Domain (“gTLD”) “.shop” are not sufficient to distinguish the disputed domain name from the GUTTERIDGE trademark. The disputed domain name <gutteridge.site> differs from the trademark solely by including the gTLD “.site”, which is not sufficient to distinguish the disputed domain name from the GUTTRIDGE mark either.

Complainant contends that Respondents have no rights or legitimate interests in the disputed domain names.

Complainant contends that the disputed domain names were registered and are being used in bad faith.

Complainant requests that the disputed domain names be transferred to it.

B. Respondents

Respondents did not reply to Complainant's contentions.

6. Discussion and Findings

6.1. Language of the Proceeding

The language of the Registration Agreement for the disputed domain name <gutteridge-outlet.shop> is English. The language of the Registration Agreement for the disputed domain name <gutteridge.site> is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

From the evidence presented on the record, no agreement appears to have been entered into between Complainant and Respondents to the effect that the language of the proceeding should be English. Complainant initially filed its Complaint in English, and has requested that English be the language of the proceeding for the following reasons:

- (a) The disputed domain names include the English terms “outlet,” “shop,” and “site.”
- (b) The associated websites are entirely in English, with no Chinese language references, indicating Respondents' proficiency in English.
- (c) Requiring Complainant to translate the Complaint and evidence into Chinese would impose an unfair burden and cause unnecessary delays.
- (d) Since neither Complainant nor Complainant's representative can communicate in Chinese, this would result in significant delays and additional expenses for Complainant.

Respondents did not make any submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 4.5.1).

On the record, Respondents, eee qeqe, dasdhuighjbvhjbhjb and a l, appear to be located in China and are thus presumably not native English speakers but native Chinese speakers; but considering the following aspects, the Panel has decided that the language of the proceeding shall be English: (a) the disputed

domain names are registered in Latin characters, particularly containing English terms (e.g., “outlet”, “shop”, or “site”), rather than Chinese script; (b) the gTLDs of the disputed domain names are “.shop” and “.site”, respectively, so the disputed domains names seem to be prepared for users worldwide, particularly English speaking countries; (c) the webpages, which both disputed domain names resolved to, were in the English language; (d) the Center has notified Respondents of the language of the proceeding in both Chinese and English, and Respondents have indicated no objection to Complainant’s request that English be the language of the proceeding; and (e) the Center also notified Respondents in both Chinese and English of the Complaint, and informed Respondents that it would accept a response in either English or Chinese, but Respondents chose not to file any response.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2. Consolidation: Multiple Respondents

The Complaint was filed in relation to nominally different domain name registrants.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing Complainant’s request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See [WIPO Overview 3.0](#), section 4.11.2.

As regards common control, the Panel finds that Complainant has provided sufficient evidence to establish that the disputed domain names or corresponding websites are subject to common control, for the following reasons:

- (a) the dates of registration of both disputed domain names were very close (March 22, 2024, and April 3, 2024);
- (b) both the disputed domain names target the same trademark; and
- (c) the website layouts and contents, which resolved from both disputed domain names, are identical.

Further, the Panel notes that the Respondents were provided an opportunity to comment on the request for consolidation, as well as the other contentions in the Complaint, but did not do so. In this case, with inter alia identical website use, the Panel is unable to determine any circumstances wherein consolidation would not be fair and equitable to all Parties.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as “Respondent”) in a single proceeding.

6.3 Substantive Issues: Three Elements

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 Complainant’s trademark and the disputed domain names. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds 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 the GUTTERIDGE 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.

The Panel finds the disputed domain name <gutteridge-outlet.shop> integrates Complainant's GUTTERIDGE mark entirely, with only minor modifications like adding "-", and "outlet", alongside the gTLD ".shop". The addition of a hyphen and the term "outlet" do not prevent a finding of confusing similarity in view of section 1.8 of the [WIPO Overview 3.0](#). The disputed domain name <gutteridge.site> differs from the trademark solely by adding the gTLD ".site".

Based on the available record, the Panel finds 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 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain names. Respondent has not rebutted 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.

More specifically:

- (i) there has been no evidence adduced to show that Respondent is using the disputed domain names in connection with a bona fide offering of goods or services. Respondent has not provided evidence of reasons to justify the choice of the terms "gutteridge", Complainant's GUTTERIDGE trademark, in the disputed domain names. There has been no evidence to show that Complainant has licensed or otherwise permitted Respondent to use the GUTTERIDGE or to apply for or use any domain name incorporating the GUTTERIDGE marks;
- (ii) there has been no evidence adduced to show that Respondent has been commonly known by the disputed domain names. There has been no evidence adduced to show that Respondent has any registered trademark rights with respect to the disputed domain names. Respondent registered the disputed domain names in 2024, long after the GUTTERIDGE marks (registered as a trademark since 2010) became widely known. The disputed domain names are identical or confusingly similar to Complainant's GUTTERIDGE marks; and
- (iii) there has been no evidence adduced to show that Respondent is making a legitimate noncommercial or fair use of the disputed domain names. By contrast, both disputed domain names resolved to identical websites offering to sell men's and women's clothing products. Previously, they directed to a website purporting to be the official "Gutteridge" website, copying its structure, pictures, and videos. It seems that Respondent is likely making profits through the Internet traffic attracted to the website under the disputed domain names. (See *BKS Bank AG v. Jianwei Guo*, WIPO Case No. [D2017-1041](#); and *Pet Plan Ltd. v. 权中俊 and 李金梁 (Li Jin Liang)*, WIPO Case No. [D2020-3358](#).)

Panels have held that the use of a domain name for illegal activity (e.g., impersonation/passing off) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Based on the available record, the Panel finds 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 Respondent has registered and used the disputed domain names in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

As introduced above, both disputed domain names resolved to identical websites offering to sell men's and women's clothing products. Previously, they directed to a website purporting to be the official "Gutteridge" website, copying its structure, pictures, and videos. Pursuant to paragraph 4(b)(iv) of the Policy, such use falls plainly within the non-exhaustive list of examples of registration and use in bad faith, namely using the confusingly similar disputed domain names with the intention to attempt to attract, for commercial gain, Internet users to Respondent's website by creating a likelihood of confusion with Complainant's mark. Having reviewed the record, the Panel finds Respondent's registrations and use of both disputed domain names constitute bad faith under the Policy.

Based on the information provided by Complainant, the Panel finds that Complainant has a widespread reputation in the GUTTERIDGE marks with regard to its products and services. It is not conceivable that Respondent would not have had Complainant's trademark in mind at the time of the registration of the disputed domain names (in 2024). This has been reinforced by the fact that each disputed domain name resolves to a website displaying Complainant's GUTTERIDGE trademark.

Thus, the Panel concludes that Respondent has engaged in bad faith conduct with respect of the disputed domain names.

Based on the available record, the Panel finds 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 <gutteridge-outlet.shop> and <gutteridge.site> be transferred to Complainant.

/Yijun Tian/

Yijun Tian

Sole Panelist

Date: August 13, 2024