

ADMINISTRATIVE PANEL DECISION

Izipizi v. maria lawson
Case No. D2024-2904

1. The Parties

The Complainant is Izipizi, France, represented by Plasseraud IP, France.

The Respondent is maria lawson, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <izipizishopus.com> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 16, 2024. On July 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 17, 2024, 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 (REDACTED FOR PRIVACY, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 17, 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 an amended Complaint on July 18, 2024.

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 the Respondent of the Complaint, and the proceedings commenced on August 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 22, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 23, 2024.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on August 27, 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 a French company, founded in 2010, that offers reading glasses and sunglasses. The Complainant owns trademark registrations for IZIPIZI such as:

- International trademark registration No. 1476464, registered on April 18, 2019;
- International trademark registration No. 1314183, registered on June 9, 2016.

The disputed domain name was registered on May 13, 2024, and redirects to a website, which purports to offer the Complainant's products at discounted prices as well as other products.

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 name.

Notably, the Complainant contends that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The Complainant's trademark is well-known as established by UDRP Panels. The disputed domain name incorporates the Complainant's trademark in its entirety. The generic term "shop" and the geographic element "us" are purely descriptive and as such do not eliminate confusing similarity. Moreover, they could aggravate the likelihood of confusion as they refer to a country where the Complainant is active. The confusing similarity is enhanced by the content of the website to which the disputed domain name resolves as it is an online shop for the Complainant's products and displays the Complainant's trademark. The generic Top-Level Domain ("gTLD") ".com" does not eliminate confusing similarity and has to be ignored.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The disputed domain name does not correspond to the name of the Respondent nor to any trademark registered in its name. The Respondent is not authorized by the Complainant to use its trademark.

There is no evidence of fair or noncommercial or bona fide use as the disputed domain name redirects to a website, which purports to sell the Complainant's products at abnormally low prices. The use being made aims at impersonation or creating an impression of affiliation. Even if the said website was selling genuine products of the Complainant, the requirements of the "Ok! Data" test are not met: 1. the prices of the products are so low that it is highly doubtful that products can be delivered at this price, 2. other products are also being sold, 3. there is no disclosure of lack of relationship between the Complainant and the Respondent, and 4. due to its construction, it corners the United States market.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. The Respondent must have been aware of the Complainant's trademark, which is registered all over the world including the United States. The Complainant's trademark is displayed on the website of the Respondent. The Complainant's trademark is highly distinctive. The Respondent's website purports to offer the Complainant's products. The construction of the disputed domain name which includes the terms "shop" and "us" also suggests knowledge. Bad faith use and registration is established by merely registering a domain name that is confusingly similar to a well-known trademark by an unrelated entity. The Respondent

is attempting to impersonate the Complainant or suggest affiliation or endorsement. The products must be either fake or can never be delivered. There is no information under the “Contact us” or “About us” sections.

B. Respondent

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

6. Discussion and Findings

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 name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 1.7.

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 entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, “shop” and “us”, 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 name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. 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 name such as those enumerated in the Policy or otherwise.

The Panel notes that the disputed domain name resolves to a website using the Complainant’s trademark and purportedly offering for sale the Complainant’s products at discounted prices as well as other unrelated products.

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

Moreover, since the disputed domain name consists of the Complainant's trademark together with a geographical term where the Complainant is active and a term indicating an online store, such composition cannot constitute fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

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 the Respondent is attempting to pass off as the Complainant by using the latter's trademark on its website. By using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant.

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.

Panels have held that the use of a domain name for illegal activity here, claimed impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the Complainant has established the third 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 <izipizishopus.com> be transferred to the Complainant.

/Nayiri Boghossian/

Nayiri Boghossian

Sole Panelist

Date: September 3, 2024