

## **ADMINISTRATIVE PANEL DECISION**

Bobo Choses, S.L. Spain v. cai jinhuang  
Case No. D2024-3841

### **1. The Parties**

The Complainant is Bobo Choses, S.L., Spain, represented by March Trade Mark, S.L., Spain.

The Respondent is cai jinhuang, China.

### **2. The Domain Name and Registrar**

The disputed domain name <bobochooses-vip.shop> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 20, 2024. On September 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 23, 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 (Unknown Registrant) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 23, 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 September 25, 2024 and September 26, 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 September 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 17, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 18, 2024.

The Center appointed Ada L. Redondo Aguilera as the sole panelist in this matter on October 23, 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 Bobo Choses, S.L, a Spanish clothing company, founded in the year 2008 by two art directors with a strong background in advertising and graphic design.

The Complainant commercializes creative and fun clothes for kids and recently, also for adults on their official website: "www.bobochoses.com".

The Complainant manufactures for many countries worldwide and has a team of specialized designers who create clothing pieces with high quality and exclusivity.

Additionally, the Complainant is using the following domain name <bobochoses.com> to offer its products .

The Complainant is the owner of the following registered trademarks:

1. European Union Trademark number 5871348 BOBO CHOSSES in classes 14, 16, 25, 26, 27, and 28, registered on February 29, 2008.
2. European Union Trademark number 18608419 BOBO CHOSSES in class 24, registered on March 17, 2022.
3. International Trademark number 1003043 BOBO CHOSSES in class 25, registered on March 6, 2009, designating Japan, Singapore, Australia, United States of America, and Republic of Korea.
4. Chinese Trademark number 13072200 BOBO CHOSSES (Device) in class 25, registered on February 28, 2016.
5. Chinese Trademark number 24506545 BOBOCHOSSES in class 25, registered on June 7, 2018.
6. Chinese Trademark number 47475372 BOBO CHOSSES in class 35, registered on April 21, 2021.
7. Chinese Trademark number 56632906 BOBO CHOSSES in class 3, registered on April 28, 2022.

The Complainant also uses BOBO CHOSSES as the name for its social network's profiles.

The disputed domain name was registered on September 15, 2024.

The disputed domain name was previously resolved to a Spanish-language website that appeared to be a website of, or associated with, the Complainant. The website contained the Complainant's trademark and copyright images taken from the Complainant's official website, and the Complainant's products were purportedly offered for sale under the trademark BOBO CHOSSES. As of the date of this Decision, the disputed domain name is no longer resolved 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 disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to its BOBO CHOSSES trademark since it includes the Complainant's trademark in its entirety with the hyphen "-" and the additional term "vip". Also, the Complainant argues that the Respondent has no rights or legitimate interests concerning the disputed domain name, and finally, that the Respondent registered and is using the disputed domain name 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

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable". Paragraph 4(a) of the Policy requires a complainant to prove each of the following three elements in order to obtain an order that the disputed domain name be transferred or cancelled:

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

The Panel will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

### 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 the trademark BOBO CHOSSES for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

In the present case, the disputed domain name includes the Complainant's trademark BOBO CHOSSES together with the hyphen "-" and the term "vip". Although the addition of other terms, here "vip", may bear on the assessment of the second and third elements, the Panel finds the addition of such a hyphen "-" and the term "vip" does not prevent a finding of confusing similarity between the disputed domain name and the trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Additionally, it is well established that the generic Top-Level Domain "gTLD" (in this case ".shop") is generally disregarded when considering whether a disputed domain name is confusingly similar to the trademark in which the complainant has rights. Section 1.11.1 of the [WIPO Overview 3.0](#) states that "the applicable Top Level Domain ('TLD') in a domain name (e.g., '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusion similarity test".

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 any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to the respondent of the dispute, the respondent's use of, or demonstrable 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; or
- (ii) the respondent has been commonly known by the 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 domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Complainant has rights in the BOBO CHOSSES trademark which precede the Respondent's acquisition of the disputed domain name. Moreover, there is no evidence that the Respondent is commonly known by the disputed domain name.

The Complainant has not authorized, licensed, or permitted the Respondent to register or use the BOBO CHOSSES trademark in the disputed domain name. According to the Complainant, the disputed domain name resolved to a website prominently displaying the Complainant's trademark that is nearly identical to the Complainant's official website, using copyrighted images owned by the Complainant. It can be also stated that the Respondent has used the disputed domain name to display a Website that offered for sell without authorization of the Complainant products that appear to be from the Complainant, products that according to the Complainant are not manufactured by the Complainant and has a payment method and structure to formalize sale of the products that may not be deliver to the Internet users.

The disputed domain name has been used to resolve to a website featuring the Complainant's BOBO CHOSSES trademark in an alleged offering of the Complainant's branded goods, which does not constitute a "bona fide" offering given that the website fails to disclose its lack of relationship to the Complainant. [WIPO Overview 3.0](#), section 2.8. While the Complainant alleges the fact that the disputed domain name offered products that are not manufactured by the Complainant, the Panel cannot determine whether they are genuine or not. Nevertheless, given that the disputed domain name and website seek to impersonate the Complainant, such illicit use cannot confer rights or legitimate interests upon the Respondent. [WIPO Overview 3.0](#), section 2.13.1 establishes that panels have held that the use of a domain name for illegal activity such as impersonation or other types of fraud can never confer rights or legitimate interests on a respondent.

Based on the record, the Panel finds that the Complainant has established a prima facie case and that the Respondent has no rights or legitimate interests in the disputed domain name, and the burden is thus on the Respondent to produce evidence to rebut this presumption.

The Respondent has not rebutted the Complainant's prima facie case 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. There has been no evidence adduced to show that the Respondent has been commonly known by the disputed domain name, and there has been no evidence adduced to show that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name.

Therefore, the Panel finds that the Respondent lacks rights or legitimate interests in the disputed domain name and that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

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.

The Panel finds that the Complainant's earliest BOBO CHOSSES trademark registration predates the creation date of the disputed domain name. In addition, the Complainant has accrued substantial goodwill and recognition since the Complainant's establishment and so is fair to say that BOBO CHOSSES is a distinctive trademark for clothing. Moreover, it has been accepted in past decisions that the selection of a domain name that is so obviously connected to a complainant's trademark strongly suggests "opportunistic bad faith" in the registration of the disputed domain name, particularly where it is held by someone with no affiliation with the complainant, see *Singapore Airlines Ltd v. European Travel Network*, WIPO Case No. [D2000-0641](#) and [WIPO Overview 3.0](#), section 3.1.4.

Also, the Panel concludes that the Respondent chose to register the disputed domain name comprised of the Complainant's trademark combined with the word "vip" to facilitate a scheme where the Respondent's website impersonated that of the Complainant and allegedly offered for sale products which purported to be those of 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 such as impersonation or other types of fraud 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 also finds that the website at the disputed domain name previously displayed the Complainant's trademark and copyrighted images taken from the Complainant's website, and apparently offered for sale the Complainant's products that are not manufactured by the Complainant and has a payment method and structure to formalize the payments, for products purchased that may not be delivered to the buyers, which falls squarely into paragraph 4(b)(iv) of the Policy.

The fact that the disputed domain name does not currently resolve to an active website does not prevent a finding of bad faith under the circumstances of this case.

The Panel also notes that the Respondent has not filed a Response and hence has not availed itself of the opportunity to present any case of good faith that it might have.

Accordingly, the Panel finds that the disputed domain name has been registered and is being used in bad faith and the third condition of paragraph 4(a) of the Policy has been fulfilled.

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 name <bobochooses-vip.shop> be transferred to the Complainant.

*/Ada L. Redondo Aguilera/*

**Ada L. Redondo Aguilera**

Sole Panelist

Date: November 6, 2024