

## **ADMINISTRATIVE PANEL DECISION**

The Brighton and Hove Albion Football Club Limited v. Tammy Gant  
Case No. D2024-5046

### **1. The Parties**

The Complainant is The Brighton and Hove Albion Football Club Limited, United Kingdom ("UK"), represented by Stevens & Bolton LLP, UK.

The Respondent is Tammy Gant, Hong Kong, China.

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

The disputed domain name <brightonandhovealbionstore.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 December 6, 2024. On December 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 10, 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 December 13, 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 amendment to the Complaint on December 13, 2024.

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 December 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 7, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 15, 2025.

The Center appointed Andrew Brown K.C. as the sole panelist in this matter on January 20, 2025. 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 registered in the UK and based in Brighton, UK. The Complainant was incorporated on May 27, 1904. The Complainant is an English football team currently playing in the English Premier League, the top tier of professional football in England. The team was founded in 1901.

The Complainant states that it has had a long history within English football. Also, it has had extensive national and international media coverage for football games in which it participated in the English Premier League. It further states that it possesses multiple registered trademarks both in the UK and internationally for marks comprising or including BRIGHTON & HOVE ALBION.

The relevant registrations of the Complainant (the “B&HA Trademark”) include:

| Jurisdiction | Number        | Trademark              | Registration Date | Class  |
|--------------|---------------|------------------------|-------------------|--|
| UK           | UK00002584445 | BRIGHTON & HOVE ALBION | October 28, 2011  | 6, 9, 14, 16, 18, 21, 24, 25, 28, 35, 36, 38,41, and 43  |
| UK           | UK00003454856 | ALBION / THE ALBION    | December 17, 2021 | 6, 9, 14, 16, 18, 21, 24, 25, 28, 35, 36, 38,41, and 43  |
| UK           | UK00003022011 | BHAFC                  | March 21, 2014    | 6, 9, 14, 16, 18, 21, 24, 25, 28, 35, 36, 38, 41, and 43 |

The Complainant has further registrations for BRIGHTON & HOVE ALBION in the United States of America (“United States”), the European Union (“EU”) and as an International Registration covering Australia, the EU, Japan, New Zealand, Republic of Korea, Singapore and the United States.

The Complainant has two further relevant registrations (the “Seagull Trademarks”) as follows:

| Jurisdiction | Number        | Trademark  | Registration Date | Class   |
|--------------|---------------|--|-------------------|---|
| UK           | UK00002584436 | Logo of seagull and words BRIGHTON & HOVE ALBION | October 28, 2011  | 6, 9, 14, 16, 18, 21, 24, 25, 28, 35, 36, 38,41, and 43 |
| UK           | UK00002584437 | SEAGULLS   | April 6, 2012     | 6, 9, 14, 16, 18, 21, 24, 25, 28, 35, 36, 38,41, and 43 |

The Complainant has registered its own domain name <brightonandhovealbion.com>.

The disputed domain name was registered on June 7, 2024. A website was initially located at the disputed domain name displaying the Complainant’s Seagull logo and offering for sale sport clothes under the Complainant’s BHAFC trademark.

## **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 either identical or confusingly similar to its BRIGHTON & HOVE ALBION trademark. The Complainant points to the use of "brightonandhovealbion" in the disputed domain name and says that the addition of the word "store" does not distinguish the disputed domain name from the Complainant's name and trademark.

The Complainant states that the Respondent has made any bona fide or legitimate commercial use of the disputed domain name. Rather, the Respondent is using the disputed domain name to sell unauthorized and counterfeit products bearing the Complainant's B&HA Trademark and other trademarks.

The Complainant states that it is not aware of any evidence that:

- (a) Before any notice to the Respondent, the Respondent had made any use of or demonstrable preparations to use a name corresponding to the disputed domain name in connection with the bona fide offering of goods and services.
- (b) The Respondent has been commonly known by the disputed domain name.
- (c) The Respondent is making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain to misleadingly direct consumers or to tarnish the Complainant's name.

The Complainant claims that the disputed domain name was registered in bad faith. Given the strength of the Complainant's rights in the B&HA Trademark, the Complainant states that the disputed domain name was acquired for the sole purpose of causing confusion or misleading the public into thinking that this site (hosted at the disputed domain name) was the Complainant's legitimate website.

The Complainant further states that the disputed domain name is being used intentionally to attract for commercial gain Internet users by creating a likelihood of confusion with the Complainant's B&HA Trademark as to source, sponsorship, affiliation or endorsement of the website. It states that the Respondent has no known reasonable justification by having registered the disputed domain name.

### **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 Panel finds the Complainant's BRIGHTON & HOVE ALBION trademark is clearly recognizable within the disputed domain name. Although the Complainant's BRIGHTON & HOVE ALBION trademark uses an ampersand whereas the disputed domain name uses the word "and", the Panel finds that this does not prevent a finding of confusing similarity.

It is well-established that where a Complainant's trademark is clearly recognizable within the disputed domain name, the addition of (as here) a term such as "store" does not prevent a finding of confusing similarity under the first element 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 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 disputed domain name was registered in bad faith for the following reasons:

(a) The Panel finds that the Complainant's B&HA Trademark has an established reputation. The Complainant has been using that trademark since 1901. Its registered trademark rights in the UK date from 2011, well before registration of the disputed domain name on June 7, 2024. The Complainant has demonstrated that through extensive use and more recently the Complainant's participation in the English Premier League, there has been very significant global publicity given to the Complainant and its B&HA Trademark.

(b) More particularly, the Respondent clearly knew of the Complainant's B&HA Trademark when he registered the disputed domain name. This is evidenced by the totality of the circumstances. In particular, the Panel relies on the fact that shortly after registration of the disputed domain name, the Respondent established a website linked to the disputed domain name. This website promoted unauthorized clothing products purporting to be official B&HA football club clothing including "home" and "away", and "goalkeeper"

kits. The clothing on the website (and the website itself) featured the Complainant's seagull logo and the products description featured the Complainant's BHAFc trademark. These activities demonstrate clear knowledge by the Respondent of the Complainant and its trademark rights in the B&HA Trademark and the Complainant's Seagull registered marks.

The Panel is also satisfied that the Respondent is using the disputed domain name in bad faith for the following reasons:

- (a) As just detailed, the Complainant has provided evidence that the disputed domain name has been used to intentionally attempt to attract Internet users for commercial gain and to deceive persons as to the origin of the website and the goods offered. The Panel is satisfied that a number of Internet users encountering or finding the disputed domain name will be deceived or confused into thinking that this is the Complainant's genuine site or is licensed or authorized by the Complainant, when this is not the case.
- (b) The use of a proxy shield by a respondent to shield identities has been regarded in some cases by previous panels as demonstrating both bad faith registration and use. In the circumstances of this case, the Panel considers that the Respondent's use of the "Super Privacy Service Ltd c/o Dynadot" by the Respondent may properly be taken into account as a further relevant factor showing bad faith.
- (c) The Panel is also entitled to draw and does draw an adverse inference of the failure of the Respondent to respond to the Complaint and to the factual allegations made by the Complainant.

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 <brightonandhovealbionstore.com> be transferred to the Complainant.

*/Andrew Brown K.C./*

**Andrew Brown K.C.**

Sole Panelist

Date: February 3, 2025