

ADMINISTRATIVE PANEL DECISION

PT Bali Ocean Magic v. Alan Martin, Aldram Jones
Case No. D2024-5220

1. The Parties

The Complainant is PT Bali Ocean Magic, Indonesia, self-represented.

The Respondents are Alan Martin, Australia, and Aldram Jones, location unknown.

2. The Domain Name and Registrar

The disputed domain name <waterbombali.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 18, 2024. On December 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 19, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent Alan Martin is listed as the registrant and providing the contact details.

The Center verified that 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 January 2, 2025. In accordance with the Rules, paragraph 5, the due date for Response was January 22, 2025. On January 7, 11, 15, and 17, 2025, the Center received email communications from a third party, Aldram Jones.

The Center appointed Steven A. Maier as the sole panelist in this matter on January 27, 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. Identity of the Parties

A. Complainant

The Complainant in the proceeding was initially named as Francisco Duarte Soares Pereira Alves Pimenta. However, this individual identified himself as the General Manager of an entity named PT Bali Ocean Magic, which is also the owner of the relevant trademark registrations in this case. The Panel determines in the circumstances that the appropriate Complainant is PT Bali Ocean Magic.

B. Respondents

While no communication was received from the Registrar-disclosed domain name registrant, Alan Martin, the Center received various communications from Aldram Jones, claiming to be the owner of the disputed domain name. Despite the Center's request, Aldram Jones did not clarify his relationship with the Registrar-disclosed domain name registrant, but claimed the registration details were inaccurate due to an "administrative error".

Bearing in mind both the Registrar-disclosed information and Aldram Jones's claim to be the beneficial holder of the disputed domain name, the Panel finds that both Alan Martin and Aldram Jones are appropriate Respondents in the proceeding.

5. Factual Background

The Complainant operates a water park in Bali, Indonesia.

The Complainant is the owner of various trademark registrations, including Indonesia trademark registration number IDM000085804 for a trademark comprising the text WATERBOM and a "wave" logo, registered on August 31, 2006, for the provision of water sports, entertainment and recreation facilities in International Class 41.

The Complainant operates a website at "www.waterbom-bali.com", the relevant domain name having been created on June 4, 2009. The Complainant exhibits archived website content dating from June 21, 2009, referring to the Complainant's rides and facilities.

The disputed domain name was registered on September 18, 2023.

The Complainant exhibits evidence that the disputed domain name has resolved to a website headed "Waterbom Bali", stating "Waterbom Bali is Asia's #1 Water Park!" and including a link to "Buy tickets".

At the date of this Decision, the disputed domain name relates to a website headed "Welcome to the home of Waterbomb Ali", featuring a comic-style drawing, and stating "This is a website for fans of the children's character Waterbomb Ali." The website includes Aldram Jones's email address.

6. 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.

The Complainant submits that the disputed domain name is identical to its registered trademark WATERBOM BALI. However, the Panel notes at this point that the Complainant provides no evidence of any such registration, but only for the mark WATERBOM.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that the Respondent has not been known by the disputed domain name, which refers only to the Complainant's well-known water park, which it has operated since 2009. The Complainant further submits that the Complainant has not made any meaningful preparations to use the disputed domain name for any bona fide purpose, but only to exploit the reputation of the Complainant's trademark.

The Complainant submits that the disputed domain name has been registered and is being used in bad faith. It states that, by incorporating the name "Waterbom Bali", the disputed domain name may represent to Internet users that it is associated with the Complainant's official website or services. The Complainant contends that the disputed domain name was therefore registered opportunistically and in order to exploit the Complainant's goodwill.

The Complainant requests the transfer of the disputed domain name.

B. Respondents

The Respondents did not file a formal Response in the proceeding. However, Aldram Jones's email to the Center dated January 17, 2025 contained submissions in reply to the Complainant's contentions which the Panel will treat as the Response.

Aldram Jones states that he has no intention to affect the Complainant's business in any way. He states, however, that the Complainant's business is over 20 years old, and asks why the Complainant had not itself registered the disputed domain name.

Aldram Jones submits that the content of the Respondents' website exhibited to the Complainant date from before his ownership of the disputed domain name, and that he cannot be held responsible for that content. He states that the current use of the website relates to the words "water bomb" and does not reference the Complainant's water park in any way.

Aldram Jones states that, by misrepresenting that its trademark was WATERBOM BALI, the Complainant has provided false information to the Panel.

7. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondents have 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.

A. Identical or Confusingly Similar

The Complainant has established that it is the owner of registered trademark rights for the mark WATERBOM. The disputed domain name wholly incorporates that trademark, together with the additional term "bali", which does not prevent the Complainant's trademark from being recognizable within the disputed domain name.

The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has demonstrated that the disputed domain name is virtually identical to its domain name <waterbom-bali.com>, which it has used to promote its “Waterbom Bali” water park since 2009. It has also shown that the disputed domain name has been used for a website which pretended to be the Complainant’s own website and purported to offer ticket sales.

The Panel also notes the confusion regarding the identity of the Respondents, including Aldram Jones’s assertion that he, and not the registrant, is the owner of the disputed domain name, his failure to disclose his relationship with the registrant, and his claim not to have been responsible for the earlier content of the Respondent’s website. In these circumstances, the Panel attaches no credibility to the Respondents’ current use of the website in relation to a supposed “children’s character Waterbomb Ali”, and finds this to represent a sham or pretext for taking unfair advantage of the Complainant’s trademark.¹

The Panel therefore finds that the Respondents have no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

For the same reasons as set out above, the Panel finds that the disputed domain name was registered and is being used in bad faith. The disputed domain name is confusingly similar to the Complainant’s trademark, virtually identical to its domain name, and has been used to impersonate its business. The current use of the disputed domain name, which the Panel considers to be a sham or pretext for taking unfair advantage of the Complainant’s trademark, does nothing to rebut the evidence of registration and use of the disputed domain name in bad faith, and the Panel finds in particular that, 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’s trademarks as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy).

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

8. 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 <waterbombali.com> be transferred to the Complainant.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: February 10, 2025

¹In this regard, pursuant to paragraphs 10 and 12 of the Policy, the Panel has conducted some limited factual research and found that, despite the Aldram Jones’ claim to the contrary, the Internet Archive shows the disputed domain name continued to resolve to a website referencing the Complainant’s water park throughout 2024, after the current registration of the disputed domain name in September 18, 2023. Moreover, the Panel notes the simple and static nature of the current website use, without any apparent website functionality or explanation regarding the alleged cartoon character or the identity of the Respondent.