

## **ADMINISTRATIVE PANEL DECISION**

Blauer World Fashion S.r.l. v. Def Shop, def-shop  
Case No. D2025-0066

### **1. The Parties**

The Complainant is Blauer World Fashion S.r.l., Italy, represented by Ubilibet, Spain.

The Respondent is Def Shop, def-shop, United States of America ("United States").

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

The disputed domain name <blauerusa.net> is registered with Squarespace Domains II LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 8, 2025. On January 8, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 9, 2025, 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 (not available) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 10, 2025, 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 January 10, 2025.

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 January 13, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 2, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 3, 2025.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on February 12, 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 traces back its origins to the North American brand BLAUER, established in 1936 by Louis Blauer in Boston which initially produced durable outwear for police and military forces but later turned to outwear and fashion apparel, having been bought in 2001 by FGF Industry Group, an Italian company of the fashion industry.

The Complainant and its affiliated companies own and operate as their primary corporate domain name <blauerusa.com>. In addition to that, the Complainant and its affiliated companies are the owner of the following, amongst other, trademark registrations (collectively referred as the “BLAUER” trademark):

- International trademark registration No. 1275572, for the word and device mark BLAUER., registered on July 30, 2015, in class 9;
- European Union trademark registration No. 007016991, for the word and device mark BLAUER., registered on December 10, 2009, successively renewed, in classes 3, 9, 14, 18, and 24;
- United Kingdom trademark registration No. UK00907016991, for the word mark BLAUER., registered on December 10, 2009;
- United States trademark registration No. 5,555,956, for the word mark BLAUER, registered on September 4, 2018, in classes 18 and 25; and
- United States trademark registration No. 6754643, for the word and device mark BLAUER, registered on June 7, 2022, in class 25.

The disputed domain name was registered on January 31, 2024. No active webpage resolves from the disputed domain name.

#### **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 asserts that its BLAUER trademark stand as a prime example of successful brand transformation, seamlessly blending its historical legacy with a forward-looking strategy that emphasizes product innovation and effective market positioning, having contributed to the group's revenues which reached EUR 15.8 million in 2024.

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's BLAUER trademark, as well as primary domain name <blauerusa.com>. Under the Complainant's view, the disputed domain name consists solely of the Complainant's trademark taken in its entirety, with the addition of the acronym “usa” which refers to the country of origin of the BLAUER trademark.

Regarding the absence of the Respondent's rights or legitimate interests, the Complainant argues that:

- i) the Complainant has not authorized, licensed, or allowed the Respondent or any third party to use its trademarks, whether in the disputed domain name, or in any other way that would confer validity or legitimacy upon such use;

- ii) the Respondent has not used the disputed domain name in connection with a genuine offering of products or services; there also not being any indication that the Respondent has been recognized by the disputed domain name;
- iii) the disputed domain name is not currently and has never been used in connection with a bona fide offering of goods or services.

As to the registration and use of the disputed domain name in bad faith, the Complainant asserts that its BLAUER trademark is a well-known trademark, being highly unlikely that the Respondent chose the disputed domain name without prior knowledge of the Complainant's activities and trademark. Furthermore, the Respondent's current lack of use of the disputed domain name is a further indicative of the Respondent's bad faith conduct.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy sets forth the following three requirements, which have to be met for this Panel to order the transfer of the disputed domain name to the Complainant:

- (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 Complainant must prove in this administrative proceeding that each of the aforementioned three elements is present in order to obtain the transfer of the disputed domain name.

In accordance with paragraph 14(a) of the Rules, if the Respondent does not submit a Response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the Complaint.

### **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 term ("usa") may bear on assessment of the second and third elements, the Panel finds the addition of such term 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.

In that sense, and according to the evidence submitted, the Complainant has made a prima facie case against the Respondent who has not been commonly known by the disputed domain name and is neither authorized, licensed, or been allowed to use the Complainant’s trademarks, whether in the disputed domain name, or in any other way.

Also, the lack of evidence as to any trademarks registered by the Respondent corresponding to the disputed domain name, corroborates the indication of an absence of rights or legitimate interests in the disputed domain name.

Moreover, according to the evidence submitted by the Complainant, the apparent passive holding of the disputed domain name does not constitute a bona fide offering of goods or services, nor a legitimate noncommercial or fair use of the disputed domain name in these circumstances.

Lastly, the composition of the disputed domain name, incorporating the Complainant’s trademark with the term “usa”, which refers to the country of origin of the BLAUER trademark and is confusingly similar to the Complainant’s domain name, carries a risk of implied affiliation.

Under these circumstances and absent evidence to the contrary, the Panel finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain name.

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.

The Complainant is the owner of the BLAUER trademark, which had been in use for almost nine decades before the Respondent’s registration of the disputed domain name. The Panel is of the view that the Respondent knew or should have known of the Complainant’s well-known BLAUER trademark when registering the disputed domain name.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine includes: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent’s concealing its identity or use of

false contact details (noted to be in breach of its registration agreement) and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the reputation of the Complainant's trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Moreover, in these circumstances, bad faith of the Respondent is also supported here by (i) the lack of reply by the Respondent invoking any rights or legitimate interests; (ii) the indication of what appears to be false or incomplete contact details, not having the Center been able to deliver the written notice to the address indicated.

The third element of the Policy has therefore been met.

## **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 <blauerusa.net> be transferred to the Complainant.

*/Wilson Pinheiro Jabur/*

**Wilson Pinheiro Jabur**

Sole Panelist

Date: February 19, 2025