ARBITRATION
AND
MEDIATION CENTER

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

ADMINISTRATIVE PANEL DECISION
The Procter & Gamble Company, Braun GmbH v. Chantal Lebel, fr fr
Case No. D2025-0166

1. The Parties

The Complainants are The Procter & Gamble Company (the "First Complainant"), United States of America ("United States"), and Braun GmbH (the "Second Complainant"), Germany, represented by Studio Barbero S.p.A., Italy.

The Respondent is Chantal Lebel, fr fr, France.

2. The Domain Name and Registrar

The disputed domain name <brauntimer.com> is registered with Hongkong Kouming International Limited (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on January 16, 2025. On January 16, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 17, 2025, the Registrar transmitted by email to the Center its verification response confirming that the Respondent 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 in Chinese and English of the Complaint including that the language of the Registration Agreement for the disputed domain name is Chinese and the Complainants have, in the Complaint, requested that English be the language of proceeding. The proceedings commenced on January 17, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 6, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 7, 2025.

The Center appointed Karen Fong 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 Second Complainant is a subsidiary of the First Complainant. The First Complainant is one of the largest companies in the world and manufactures a wide range of consumer goods including in the areas of health care, hair care, cosmetics, laundry, and fabrics care. The First Complainant's brands include ARIEL, BRAUN, PAMPERS, and TAMPAX.

The Second Complainant was founded in the 1920s and its brand, BRAUN, is well known for small electrical appliances in the following categories: male dry shaving, female electric hair removal, health and wellness, clocks and watches, as well as home small appliances.

The BRAUN trade mark is registered in many jurisdictions including the following:

- International Trade Mark Registration No. 652027 for BRAUN registered on November 14, 1995;
- International Trade Mark Registration No. 400415 for BRAUN in stylized form (the "Logo Mark") registered on May 23, 1973;
- European Union Trade Mark Registration No. 00394122 for BRAUN registered on August 17, 1999;

(individually and collectively, the "Trade Mark").

The First Complainant is the owner of various domain names comprising the Trade Mark including <braun.com> which was registered on June 24, 1997 and is used as the Complainants' principal website dedicated to BRAUN products and services; and <braun-clocks.com> which was registered on March 25, 2010 and resolves to a website dedicated to BRAUN clocks and alarms. The BRAUN brand has been and continues to be extensively advertised and promoted.

The Respondent, who appears to be based in France, registered the disputed domain name on October 30, 2024. The disputed domain name initially resolved to a website featuring the Logo Mark and offering for sale purported BRAUN table clocks at discounted prices, along with wall clocks and table clocks by the Complainants' competitors (the "Website"). On November 12, 2024, the Complainants' representatives sent a cease and desist letter to the Respondent via the Registrar. On November 13, 2024, a take down request was also sent to the service provider hosting the Website. The Website was deactivated and is now an inactive website.

5. Parties' Contentions

A. Complainants

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainants contend that the disputed domain name is confusingly similar to the Trade Mark in which they have rights, that the Respondent has no rights or legitimate interests with respect to the disputed domain name, and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

6.1 Preliminary Issues

A. Consolidation: Multiple Complainants

The Complainants request the consolidation of the Complaint by both Complainants in relation to the disputed domain name in a single proceeding pursuant to paragraph 10(e) of the Rules.

The Respondent did not comment on the Complainants' request.

In addressing the Complainants' request, the Panel will consider whether (i) the Complainants have a specific common grievance against the Respondent, or the Respondent has engaged in common conduct that has affected the Complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 4.11.1.

As regards common grievance or common conduct, the Panel notes the following:

- The Second Complainant is a subsidiary of the First Complainant;
- The First Complainant is the registrant of the majority of domain names comprising the Trade Mark whilst the Second Complainant is the owner of the Trade Mark;
- The Complainants share a common legal interest and complaint against the Respondent.

The evidence submitted points to the fact that the Complainants have a specific common grievance against the Respondent as they are affiliated entities with a common legal interest in the disputed domain name. The Respondent had the opportunity but did not respond to the Complaint. As regards equity and procedural efficiency, the Panel sees no reason why consolidation of the disputes would be inequitable to any Party and it would in fact be procedurally efficient to consolidate the proceedings.

Accordingly, the Panel decides to consolidate the disputes regarding the two Complainants in a single proceeding.

B. Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainants requested that the language of the proceeding be English for the following reasons:

- the disputed domain name is registered in Latin characters and includes the English term "timer" indicating that the Respondent has sufficient command of English;
- The disputed domain name has as its Top-Level Domain ("TLD") ".com" which demonstrates the Respondent's intention to target a wide audience, including English-speaking users;
- The Website was in French but included English terms like "products" in the URL of internal web pages;
- The registrant is an individual with a French name located in France which indicates that her mother tongue should be French rather than Chinese;
- There is a likelihood that the selection of a Chinese registrar was an attempt to frustrate the Complainants attempt to enforce its IP rights given that the Website was a copy cat website.
- To proceed in Chinese would place an undue burden on the Complainants in terms of translation expense and delay.

The Respondent has not challenged the Complainants' language request and in fact has failed to file a response in either English or Chinese.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview 3.0, section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2 Substantive Issues

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 Complainants' Trade Mark and the disputed domain name. WIPO Overview 3.0, section 1.7.

Based on the available record, the Panel finds the Complainants have shown rights in respect of a trade mark or service mark for the purposes of the Policy. WIPO Overview 3.0, section 1.2.1.

The Panel finds that the entirety of the Trade Mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Trade Mark for the purposes of the Policy. WIPO Overview 3.0, section 1.7.

While the addition of the word "timer" to the disputed domain name 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 Trade Mark for the purposes of the Policy. WIPO Overview 3.0, sections 1.8.

Based on the available record, 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.

While 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 often impossible 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. 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 record, the Panel finds the Complainants have established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainants' 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.

Moreover, the nature of the disputed domain name is inherently misleading as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. WIPO Overview 3.0, section 2.5.1.

Based on the available record, 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 must have been aware of the Trade Mark when she registered the disputed domain name given the reputation of the Trade Mark and the use of the Trade Mark especially the Logo Mark on the Website. It is therefore implausible that the Respondent was unaware of the Complainants when she registered the disputed domain name.

In the WIPO Overview 3.0, section 3.2.2 states as follows:

"Noting the near instantaneous and global reach of the Internet and search engines, and particularly in circumstances where the complainant's mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known, that its registration would be identical or confusingly similar to a complainant's mark. Further factors including the nature of the domain name, the chosen top-level domain, any use of the domain name, or any respondent pattern, may obviate a respondent's claim not to have been aware of the complainant's mark."

The fact that there is a clear absence of rights or legitimate interests coupled with the Respondent's choice of the disputed domain name without any explanation is also a significant factor to consider (as stated in WIPO Overview 3.0, section 3.2.1). The disputed domain name falls into the category stated above and the Panel finds that registration is in bad faith. The addition of the term "timer" after the Trade Mark further reflects that the Respondent had the Complainants in mind when registering the disputed domain name given the fact that "timers" is a reference to clocks and watches which are products produced and sold by the Complainants under the Trade Mark. They even have a dedicated website which is connected to a domain name comprising the Trade Mark and the word "clocks".

The disputed domain name is also being used in bad faith. The products offered for sale on the Website were likely to be counterfeit and/or unauthorised BRAUN products considering the products sold on the Website are heavily discounted and the fact that there is no relationship between the Parties.

The Website had prominently displayed the Trade Mark in the same stylised logo which the Complainants use, without any disclaimer disclosing the lack of relationship between the Parties. The content of the Website was calculated to give the impression it has been authorized by or connected to the Complainants when this is not the case. The Website was set up to deliberately mislead Internet users into believing that it was connected to, authorised by or affiliated with the Complainants. From the above, the Panel concludes that the Respondent has intentionally attempted to attract, for commercial gain, by misleading Internet users into believing that the Website was, and the products sold on it were those of or authorised or endorsed by the Complainant.

It is highly likely that Internet users when typing the disputed domain name into their browser or finding it through a search engine would have been looking for a site operated by the Complainant rather than the Respondent. The disputed domain name is likely to confuse Internet users trying to find the Complainant's official website. Such confusion will inevitably result due to the fact that the disputed domain name comprises the Trade Mark in its entirety.

The fact that the disputed domain name is now inactive does not prevent a finding of bad faith given that the distinctiveness and reputation of the Trade Mark, the composition of the disputed domain name, the lack of a response from the Respondent to the cease and desist letter and this Complaint, the inaccurate contact details provided in the WhoIs (as evidences by searches conducted by the Complainant) and the implausibility of any good faith use to which the disputed domain name may be put.

The Panel therefore finds that the disputed domain names have been registered and are being used in bad faith under paragraph 4(b)(iv) of the Policy.

Based on the available record, 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 <brauntimer.com> be transferred to the First Complainant (The Procter & Gamble Company).

/Karen Fong/
Karen Fong
Sole Panelist
Date: February 19, 2025