

## **ADMINISTRATIVE PANEL DECISION**

Baccarat SA v. Margit Moench, de de  
Case No. D2025-0844

### **1. The Parties**

The Complainant is Baccarat SA, France, represented by MEYER & Partenaires, France.

The Respondent is Margit Moench, de de, Germany.

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

The disputed domain name <germanybaccarat.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 March 3, 2025. On March 4, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 5, 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 sent an email communication to the Complainant on March 5, 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 in English on March 10, 2025.

On March 5, 2025, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On March 10, 2025, the Complainant submitted a request that English be the language of the proceeding through an amended Complaint filed in English.

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 in Chinese and English of the Complaint, and the proceedings commenced on March 11, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 31, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 9, 2025.

The Center appointed Tao Sun as the sole panelist in this matter on April 14, 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 French company manufacturing crystal wares since 1764. It is present throughout the world including Germany with more than 600 boutiques, department stores, authorized resellers and points of sale. In Germany, the Complainant runs or makes run 17 stores and corners and the online store at "www.baccarat.de".

The Complainant owns, among others, the following registered trademarks:

- (i) The French registration No. 1523101 BACCARAT FRANCE & device in class 21, registered since April 4, 1989;
- (ii) The international registration No. 418717 BACCARAT in class 21, registered on November 10, 1975, designating inter alia Germany; and
- (iii) The international registration No. 433949 BACCARAT in class 21, registered on November 10, 1977, designating inter alia Germany.

The Complainant owns and operates multiple domain names containing "Baccarat", such as <baccarat.com>, <baccarat.de>, <baccarat.it>, <baccarat.hk>, <baccarat.cn>, and etc.

The disputed domain name was registered on October 29, 2024. According to the evidence submitted by the Complainant, the disputed domain name was previously used in connection with a website offering for sale glassware, tableware, decoration, vases and lighting of various brands at discounted prices. On the website, BACCARAT trademark was contained in the product names of some of the glassware or crystal products. The website did not disclose the identity of the person or the company that was running the website.

The Respondent is reportedly a German individual.

#### **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:

- (i) The trademark BACCARAT is entirely reproduced in the radical of the disputed domain name "germanybaccarat" as "Germany Baccarat". The adding of geographical element "Germany" within the disputed domain name do not prevent a finding of confusing similarity between the disputed domain name and the Complainant's BACCARAT mark.

(ii) The Respondent is not sponsored or licensed by or affiliated with the Complainant in any way. The Complainant has not given the Respondent or anyone else the permission to use its trademarks in any manner, including in a domain name. The Respondent is using the disputed domain name in the way likely to suggest the affiliation or connection between the disputed domain name and the Complainant, which therefore confers no rights or legitimate interests in respect of the disputed domain name.

(iii) The Complaint has demonstrated the strong reputation and the widely known character of the mark BACCARAT for a long time and throughout the world including Germany. The BACCARAT trademark has been recognized by panels in various previous WIPO cases as famous or well-known trademark, such as *Baccarat S.A. v. Travis Hawkins, ETL*, WIPO Case No. [D2006-1657](#) and *Baccarat SA v. Vine and Weaver*, WIPO Case No. [D2010-0540](#). Therefore, the Respondent was necessarily aware of the BACCARAT trademark at the time it registered the disputed domain name. There is no doubt that the Respondent wanted to refer to the Complainant and its prestigious trademark. It registered the disputed domain name precisely because it knew the well-known character of the BACCARAT trademark and the Complainant's business in crystal decoration ware. The Respondent is pretending to pass off and to override the Complainant's reputation in order to "intentionally attempted to attract, for commercial gain, internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location". Overall speaking, the Respondent has registered and used the disputed domain name in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1. Preliminary Issues: 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 Complainant requested that the language of the proceeding be English for several reasons, including that the disputed domain name contains the English word "Germany", that the Respondent has registered other domain names containing English words, and that the translation would also cause extra costs on the Complainant and unduly delay to the proceeding.

The Respondent did not make any specific submissions with respect to the language of the proceeding.

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, and although the Center sent the emails in Chinese and English including the Notification of the Complaint which provided information on the language of the proceeding, the Respondent did not make any comments on the language of the proceeding, and did not file any response in Chinese or English, 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 Complainant's trademark and the disputed domain name. [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 disputed domain name is consisted of "germany" and "baccarat". The Complainant's BACCARAT trademark can be easily recognized in the disputed domain name. Therefore, it should be considered confusingly similar with the Complainant's trademark for purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other term "germany" 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.

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 Complainant has asserted that the Respondent is not sponsored or licensed by or affiliated with the Complainant in any way. The Complainant has also asserted that it has not given the Respondent or anyone else the permission to use its trademarks in any manner, including in a domain name. The disputed domain name previously resolved to a website offering for sale various products including the glassware or crystal products with the product names containing BACCARAT. There is no accurate and prominent disclosure of the Respondent's relationship with the Complainant on the website. [WIPO Overview 3.0](#), section 2.8.

Moreover, the disputed domain name itself may lead relevant public to believe it is the official German website of the Complainant's BACCARAT branded products, and therefore carries a risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

The Panel therefore 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 Complainant's BACCARAT trademark is inherently distinctive and has acquired certain reputation through use. The disputed domain name contains the entirety of the Complainant's BACCARAT trademark with the addition of "germany", which can easily be understood to represent the official Germany online website of the Complainant. Therefore, the composition of the disputed domain name may mislead Internet users into thinking it relates to the Complainant. The Panel finds that the Respondent knew or should have known of the Complainant and registered the disputed domain name in bad faith.

Furthermore, the evidence shows that the disputed domain name previously resolved to a website in the German language offering for sale various products including the BACCARAT branded products at discounted prices. The Panel is convinced that the Respondent was aware of the Complainant's BACCARAT trademark and intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website and therefore is using the disputed domain name in bad faith. Although the disputed domain name is no longer in use, such change does not have any impact on the Panel's finding of the Respondent's bad faith.

The Respondent's failure to file any formal response also supports a finding of bad faith.

The Panel finds that the Complainant has established the third element of the Policy.

### **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 <germanybaccarat.com> be transferred to the Complainant.

*/Tao Sun/*

**Tao Sun**

Sole Panelist

Date: April 28, 2025