

## **ADMINISTRATIVE PANEL DECISION**

Exclusive Books Group (Proprietary) Limited v. aaaa aaaa  
Case No. D2025-1653

### **1. The Parties**

The Complainant is Exclusive Books Group (Proprietary) Limited, South Africa, represented by Moore Attorneys Incorporated, South Africa.

The Respondent is aaaa aaaa, Afghanistan.

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

The disputed domain name <exclusivebooksale.com> is registered with West263 International Limited (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 24, 2025. On April 25, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 27, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 28, 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 amendment to the Complaint on April 29, 2025.

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 May 1, 2025. In accordance with the Rules, paragraph 5, the due date for Response was May 21, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 22, 2025.

The Center appointed Tobias Malte Müller as the sole panelist in this matter on May 28, 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**

It results from the Complainant's allegations, which have remained undisputed, that it is one of South Africa's largest bookselling chains, established in 1951 and currently owning 40 stores in South Africa but also Botswana and Namibia.

It further results from the Complainant's evidence that it is the proprietor in South Africa of several registered trademarks consisting of the verbal elements EXCLUSIVE BOOKS, in particular:

- (1) Trademark no. 1993/10512 registered on January 8, 1996, for goods in Class 16
- (2) Trademark no. 1993/10513 registered on January 8, 1996, for services in Class 42

The Complainant operates <exclusivebooks.com>, which redirects to <exclusivebooks.co.za>.

The Respondent registered the disputed domain name on February 15, 2025.

Additionally, the uncontested documentation submitted by the Complainant (dated February 27, 2025) shows that the Respondent used the disputed domain name for a website purportedly selling clothing ("welcome to purchase at VADENDS"). Following a demand letter sent by the Complainant's attorneys to the Registrar of the disputed domain name on February 27, 2025, said domain name was disconnected.

#### **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:

- (1) The Respondent's disputed domain name <exclusivebooksale.com> is virtually identical to the Complainant's EXCLUSIVE BOOKS trademark, as it wholly incorporates the Complainant's trademark. The term "booksale" does not distinguish the disputed domain name from the Complainant's trademark. In fact, it creates an impression that the disputed domain name is linked to the services of the Complainant's online platform, whereon it sells books;
- (2) The Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has no doubt that said domain name was registered merely to interfere with the Complainant's business and to confuse the public into believing that the disputed domain name belongs to the Complainant, when it does not. Furthermore, there is no evidence that the Respondent is known by the disputed domain name;
- (3) The disputed domain name amounts to abusive registration. The purpose of registering the disputed domain name is to confuse the public by making it believe that the disputed domain name is that of the Complainant. The Complainant is further of the opinion that the disputed domain name was registered to conduct phishing activity, for the purposes of luring the Complainant's customers, and/or to prevent the Complainant from reflecting the mark in a corresponding 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 mark is recognizable within the disputed domain name, since the entirety of the mark EXCLUSIVE BOOKS is reproduced within the disputed domain name. The disputed domain name may be conceptually understood as "exclusive book sale", however, this does not change the findings that the terms comprising the Complainant's trademark, "exclusive" and "books" (plural), are visually included in the disputed domain name. Furthermore, the addition of another term here, "sale" (or "ale"), 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.

Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy, [WIPO Overview 3.0](#), section 1.7.

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 observes that the disputed domain name incorporates a slight variation of the Complainant's registered trademark i.e. "exclusive book" (singular) with the term "sale" which has an inherent Internet connotation. Furthermore, it is the Panel's view that the disputed domain name is not a domain name one would logically adopt for a website selling clothing .

Furthermore, the Panel notes that there is no evidence in the record that could lead to the conclusion that the Respondent is commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy. In addition, the Respondent does not appear to have any connection or affiliation with the Complainant.

Finally, the above-described use of the disputed domain name for a commercial website purporting to sell clothing excludes any noncommercial use in the sense of paragraph 4(c)(iii) of the Policy from the outset.

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.

One of these circumstances is that the Respondent, by using the disputed domain name, has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location (paragraph 4(b)(iv) of the Policy).

Panels have found the following types of evidence to support a finding that a respondent has registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant's mark: (i) actual confusion, (ii) seeking to cause confusion (including by technical means beyond the domain name itself) for the respondent's commercial benefit, even if unsuccessful, (iii) the lack of a respondent's own rights to or legitimate interests in a domain name, (iv) redirecting the domain name to a different respondent-owned website, even where such website contains a disclaimer, (v) redirecting the domain name to the complainant's (or a competitor's) website, and (vi) absence of any conceivable good faith use, see [WIPO Overview 3.0](#) at section 3.1.4.

In the present case, it results from the Complainant's documented allegations that the disputed domain name resolved to a commercial website purportedly selling clothing ("welcome to purchase at VADENDS") without any disclaimer. The Respondent did not provide any reasonable explanation as to the selection of the disputed domain name to sell clothes under the name "VADENDS", and the Panel does not find any.

The further circumstances surrounding the disputed domain name's registration and use confirm the findings that the Respondent has registered and is using the disputed domain name in bad faith:

- i. a clear absence of rights or legitimate interests coupled with no response for the Respondent's choice of the disputed domain name;
- ii. the absence of any address or other data, allowing to identify the Respondent and serve the Center's Written Notice and

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 <exclusivebooksale.com> be transferred to the Complainant.

*/Tobias Malte Müller/*

**Tobias Malte Müller**

Sole Panelist

Date: June 11, 2025