

ADMINISTRATIVE PANEL DECISION

FAME BROS. Limited v. Jing Qin

Case No. D2022-3854

1. The Parties

The Complainant is FAME BROS. Limited, Hong Kong, China, represented by AARPI Scan Avocats, France.

The Respondent is Jing Qin, China.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 13, 2022. On October 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 17, 2022, 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. On October 20, 2022, an amended Complaint was received from the Complainant correcting the disputed domain name.

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 October 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 10, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 14, 2022.

The Center appointed 陈长杰 Jacob (Changjie) Chen as the sole panelist in this matter on November 18, 2022. 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's company was created in 2013 by Mr. Fabrice Bensoussan who is also the owner of CINEREPPLICAS trademark registrations across jurisdictions. The Complainant, incorporated in Hong Kong, China, is an international trading house active in textile and specialized notably in merchandise and products inspired by movies. The Complainant develops its business under various brands dedicated to particular products or services, among which the brand "Cinereplicas" was launched in 2005 with the official Warner Bros license for Harry Potter developing high quality replicas of the clothing seen in the films. The Complainant operates the brand "Cinereplicas" as an exclusive licensee.

The Complainant is exclusively licensed by the owner of CINEREPPLICAS trademark registrations to use the following trademarks and act alone to defend the trademarks:

- No. 3485106 semi-figurative CINEREPPLICAS French trademark, registered on August 3, 2007;
- No. 4385641 CINEREPPLICAS French trademark, registered on February 2, 2018;
- No. 00801257476 semi-figurative CINEREPPLICAS United Kingdom trademark, registered on June 1, 2016;
- No. 00801400207 CINEREPPLICAS United Kingdom trademark, registered on October 5, 2018;
- No. 1257476 semi-figurative CINEREPPLICAS International trademark, registered on January 27, 2015;
- No. 1400207 CINEREPPLICAS International trademark, registered on December 11, 2017.

According to the information disclosed by the Registrar, the Respondent is Jing Qin, located in China.

The disputed domain name was registered on July 8, 2022 and resolves to a website displaying the CINEREPPLICAS trademark and purportedly selling products in relation to the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name reproduces the CINEREPPLICAS trademark. The additional letters "usa" is not sufficient to distinguish the disputed domain name from the CINEREPPLICAS trademark. The generic Top-Level Domain ("gTLD") ".com" is disregarded under the first element confusing similarity test. Thus, the disputed domain name is confusingly similar to the CINEREPPLICAS trademark.

The Complainant further contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not commonly known by the CINEREPPLICAS trademark and the disputed domain name. Furthermore, the Respondent's use of the disputed domain name is not making a legitimate noncommercial or fair use and is not making a *bona fide* offering of goods or services. In addition, the Respondent has no relationship with the Complainant and the Complainant has not licensed or otherwise permitted the Respondent to use the CINEREPPLICAS trademark or to register a domain name incorporating this trademark. Thus, the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant finally contends that the disputed domain name was registered and is being used in bad faith. The CINEREPPLICAS trademark has gained a reputation under the Complainant's operation and the Respondent should have been aware of the trademark when registering the disputed domain name. Furthermore, the Respondent's use of the disputed domain name is with the intention to attract, for commercial gain, Internet users to his website by creating a likelihood of confusion with the CINEREPPLICAS trademark and the Complainant as to the source, sponsorship, affiliation or endorsement of his website or location. Thus, the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

In this case, the Complainant contends that it is the exclusive licensee of the trademark owner of the CINEREPLICAS trademark registrations. According to the license agreement provided by the Complainant between itself and the trademark owner, the Panel finds that the Complainant has a clear exclusive license from the trademark owner, so that the Panel views that the Complainant has established its rights in the CINEREPLICAS trademark and has the proper standing to file this complaint. See section 1.4 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Therefore, the Complainant has established its rights to the CINEREPLICAS trademark registrations, which predate the registration date of the disputed domain name (July 8, 2022).

It is well established that the gTLD suffix ".com" as a standard registration requirement is disregarded in the assessment of the confusing similarity between the disputed domain name and the Complainant's trademark.

The disputed domain name <cinereplicasusa.com> incorporates the CINEREPLICAS trademark in its entirety. Previous UDRP decisions have established that if a complainant's trademark is recognizable within a domain name that is sufficient to establish that the domain name is identical or confusingly similar to the complainant's trademark. See section 1.7 of the [WIPO Overview 3.0](#). The additional term "usa" after the CINEREPLICAS trademark does not prevent a finding of confusing similarity between the disputed domain name and the CINEREPLICAS trademark. See section 1.8 of the [WIPO Overview 3.0](#).

Thus, the Panel concludes that the disputed domain name is confusingly similar to the CINEREPLICAS trademark.

Accordingly, the Complainant has satisfied the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

The Complainant has submitted evidence to prove its rights to the CINEREPLICAS trademark. The Respondent is not licensed or permitted by the Complainant to use the CINEREPLICAS trademark or to register a domain name which incorporates this trademark. Moreover, the Respondent does not have connections with the Complainant. Further, the Respondent is not commonly known by the disputed domain name.

The Panel is satisfied that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name, and the burden of production shifts to the Respondent. See *International Hospitality Management - IHM S.p.A. v. Enrico Callegari Ecostudio*, WIPO Case No. [D2002-0683](#).

The disputed domain name resolves to a website boldly displaying the CINEREPLICAS trademark and purportedly offering products relating to the Complainant. Such use of the disputed domain name cannot be deemed as a *bona fide* offering of goods or services, or a legitimate noncommercial or fair use.

In addition, the nature of the disputed domain name, comprising the CINEREPLICAS trademark and the additional term "usa" (referring to the abbreviation of the geographical term "United States of America"), is inherently misleading, and carries a risk of an implied affiliation. Such composition of the disputed domain name does not support a finding of any rights or legitimate interests.

The Panel has weighed all available evidence and materials and finds that the facts do not support a finding of any rights or legitimate interests of the Respondent in respect of the disputed domain name.

Accordingly, the Panel concludes that the Complainant has satisfied the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The disputed domain name was registered subsequent to the first registration of the CINEREPLICAS trademark. The Complainant has submitted its official website content, search results of the brand “Cinereplicas” from search engines and social medias as evidence to support its reputation. The Panel accepts that the Complainant and the CINEREPLICAS trademark have gained a certain degree of reputation and recognition among relevant consumers worldwide. Thus, the Panel views that the Respondent should have been aware of the Complainant and the CINEREPLICAS trademark. In addition, the Respondent resolves the disputed domain name to a website boldly displaying the CINEREPLICAS trademark and purportedly offering products relating to the Complainant, which could prove that the Respondent has actual knowledge of the Complainant and the CINEREPLICAS trademark at the time of registering the disputed domain name.

The Respondent boldly displays the CINEREPLICAS trademark and purportedly offers products relating to the Complainant on the website associated with the disputed domain name. The Panel views that the Respondent has intention to cause confusion to Internet users that he has relationship with the Complainant and the CINEREPLICAS trademark and gain commercial benefits therefrom. Thus, the Panel holds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website by creating likelihood of confusion with the Complainant and the CINEREPLICAS trademark as to the source, sponsorship, affiliation, or endorsement of his website or location or products and services.

Given all the circumstances of the case, the Panel concludes that the Respondent registered and is using the disputed domain name in bad faith.

Accordingly, the Complainant has satisfied the third element under paragraph 4(a) 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 <cinereplicasusa.com> be transferred to the Complainant.

/陈长杰 Jacob (Changjie) Chen/

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Sole Panelist

Date: December 6, 2022