

ADMINISTRATIVE PANEL DECISION

Strellson AG v. Ling Lin

Case No. D2022-4495

1. The Parties

The Complainant is Strellson AG, Switzerland, represented by SKW Schwarz Rechtsanwälte, Germany.

The Respondent is Ling Lin, China.

2. The Domain Name and Registrar

The disputed domain name <joop-uk.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 November 24, 2022. On November 24, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 27, 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.

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 of the Complaint, and the proceedings commenced on December 2, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 22, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 23, 2022.

The Center appointed Taras Kyslyy as the sole panelist in this matter on January 3, 2023. 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 owns the European Union trademark registration No. 013083852 for trademark JOOP, registered on February 3, 2014.

The Complainant operates its online shop of clothing at “www.joop.com”.

The disputed domain name was registered on May 18, 2022, and resolved to a website prominently featuring the Complainant’s trademark and offering for sale various clothing bearing the Complainant’s trademark. At the time of the decision the disputed domain name does not resolve to any active website.

5. Parties’ Contentions

A. Complainant

The disputed domain name is identical or confusingly similar to the Complainant’s trademark. The Respondent is using the disputed domain name that could cause a consumer to believe that it can buy Complainant’s original products. The sign element “uk” in the disputed domain name could be seen as an indication for the Complainant’s online web shop regarding JOOP products in the United Kingdom. This similarity causes confusion, especially with regard to the letters “joop” at the beginning of the disputed domain name. The web shop visitors will be under the impression that the Respondent’s web shop is connected to the Complainant, based on the usage of the very well-known trademark with regard to “joop”. The Respondent’s use of the disputed domain name causes confusion with the protected designation by the Complainant, especially taking into account that an average consumer will pay more attention to the beginning of the disputed domain name. Visitors will especially confuse the Respondent’s web shop with the Complainant’s own web shop.

The Respondent has no rights or legitimate interests in the disputed domain name. The disputed domain name used by the Respondent is not licensed by the Complainant. The Respondent is using the disputed domain name that is similar to the trademarks of the Complainant as an indication of characteristics or properties of goods or services, in particular their nature, quality, intended purpose, value, geographical origin or time of production or rendering. The Respondent is using the disputed domain name to use the Complainant’s trademark as an indication of the intended purpose of a good, in particular as an accessory. The Respondent’s use of the Complainant’s trademark contravenes accepted principles of morality. The web shop operated by the Respondent seems to be a so called fake web shop. The identity of the web shop operated is not transparent, as there is an address provided via the imprint but there is no further information about the merchant. The company assigned to the Respondent’s web shop does not seem to exist and there is no apparent Google match regarding the address provided. During the checkout process, no terms and conditions are indicated. The privacy statement does not provide contact details either. Different payment methods are indicated but credit cards seem to be the only workable payment method without providing the recipient’s contact details in a transparent manner before continuing with providing all relevant credit card details.

The disputed domain name was registered and is being used in bad faith. The Complainant’s trademark is used by the Respondent to drive traffic to the disputed domain name and to promote the Respondent’s web shop. The Respondent is using the disputed domain name, with the intention to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant’s trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website. The Respondent’s web shop does not in any manner reflect the values connected to the Complainant’s trademark. The Respondent is free-riding on the Complainant’s trademark. Furthermore, the Respondent is damaging the reputation of the Complainant by providing a cheap look-a-like (fake) web shop. It is in the public interest to take such web shops offline in order to prevent harm to potential customers and manufacturers.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

According to section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the "[WIPO Overview 3.0](#)") the applicable generic Top-Level Domain ("gTLD") in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. Thus, the Panel disregards gTLD ".com" for the purposes of the confusing similarity test.

According to section 1.7 of the [WIPO Overview 3.0](#) in cases where a domain name incorporates the entirety of a trademark the domain name will normally be considered identical or confusingly similar to that mark for purposes of UDRP standing. The Panel finds that in the present case the disputed domain name incorporates the entirety of the Complainant's trademark.

According to section 1.8 of the [WIPO Overview 3.0](#) where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The Panel finds that in the present case the addition of a hyphen and "uk" do not prevent finding of confusing similarity of the disputed domain name to the Complainant's trademark.

Considering the above the Panel finds the disputed domain name is confusingly similar to the Complainant's trademark, therefore, the Complainant has established its case under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant has established *prima facie* that the Respondent has no rights or legitimate interests in the disputed domain name.

Furthermore, the Respondent provided no evidence that it holds rights or legitimate interests in the disputed domain name.

The Complainant did not license or otherwise agree for use of its prior registered trademark by the Respondent, thus no actual or contemplated *bona fide* or legitimate use of the disputed domain name could be reasonably claimed (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#)).

The disputed domain name used to redirect Internet users to a website with a logo similar to the Complainant's to make the Internet users believe that they actually accessed the Complainant's website or website authorized by the Complainant. Past UDRP panels confirmed that such actions prove registrant has no rights or legitimate interests in a disputed domain name (see *Daniel C. Marino, Jr. v. Video Images Productions, et al.*, WIPO Case No. [D2000-0598](#) and *Houghton Mifflin Co. v. Weatherman, Inc.*, WIPO Case No. [D2001-0211](#)).

According to section 2.8.1 of the [WIPO Overview 3.0](#) resellers and/or distributors using a domain name containing complainant's trademark to undertake sales related to the complainant's goods may be making a *bona fide* offering of goods and thus have a legitimate interest in such domain name. Outlined in *Ok! Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#) (the "Ok! Data Test"), the following cumulative requirements will be applied in the specific conditions of a UDRP case:

- (i) the respondent must actually be offering the goods at issue;
- (ii) the respondent must use the site to sell only the trademarked goods;

(iii) the site must accurately and prominently disclose the registrant's relationship with trademark holder; and
(iv) the respondent must not try to "corner the market" in domain names reflecting trademark.

The Panel finds that while it is not clear whether the goods available on the Respondent's website are actually the Complainant's products, the Respondent in any event failed to satisfy the third above requirement and did not in any way disclose its actual relationship with the Complainant, and thus failed to pass the *Oki Data* Test. The Respondent's use of the disputed domain name misleads consumers into thinking that the website is operated by or affiliated with the Complainant. As such, the Respondent's use of the disputed domain name cannot be considered *bona fide*.

Considering the above, the Panel finds the Complainant has established that the Respondent does not have rights or legitimate interests in the disputed domain name. Therefore, the Complainant has established its case under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Respondent's use of the disputed domain name to purport to sell the Complainant's products shows that at the time of the registration of the disputed domain name the Respondent clearly knew and targeted the Complainant's prior registered trademark, which confirms the bad faith (see, e.g., *The Gap, Inc. v. Deng Youqian*, WIPO Case No. [D2009-0113](#)).

According to paragraph 4(b)(iv) of the Policy the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith: by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location or of a product or service on your website or location. In this case, the disputed domain name was resolving to a website featuring the Complainant's trademark and falsely pretended to be authorized by the Complainant as its local website to intentionally attract Internet users by creating likelihood of confusion with the Complainant's trademark as to the source of the website and its products. The Panel finds the above confirms the disputed domain name was registered and used in bad faith.

Although at the time of this decision the disputed domain name resolves to inactive webpage, its previous bad faith use and lack of explanation of possible good faith use from the Respondent makes any good faith use of the disputed domain name implausible. Thus, the current passive holding of the disputed domain name does not prevent a finding of bad faith (see section 3.3 of the [WIPO Overview 3.0](#)).

Considering the above, the Panel finds the disputed domain name was registered and is being used in bad faith. Therefore, the Complainant has established its case under paragraph 4(a)(iii) 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 <joop-uk.com> be transferred to the Complainant.

/Taras Kyslyy/

Taras Kyslyy

Sole Panelist

Date: January 3, 2023