

ADMINISTRATIVE PANEL DECISION

Miniconf S.p.A. v. Bjcjd Ubhjfe
Case No. D2022-4523

1. The Parties

The Complainant is Miniconf S.p.A., Italy, represented by Bugnion S.p.A., Italy.

The Respondent is Bjcjd Ubhjfe, China.

2. The Domain Name and Registrar

The disputed domain name <idokids.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 28, 2022. On November 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on November 29, 2022, 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 December 2, 2022.

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 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 5, 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 was established in 1973 and for the last 49 years it has been producing, promoting, and distributing fashion articles and accessories for children around the world. The Complainant has a multi-brand strategy, operating, and offering for sale its children's apparel under the distinct brands, SARABANDA, MINIBANDA, I DO (or IDO), and DODIPETTO. The company produces around 7 million garment pieces a year, distributed in approximately 2,500 stores worldwide. The Complainant is ranked the 5th in Italy and the 10th worldwide in the kids wear sector.

The trademark I DO was first registered in the name of the Complainant in Europe on December 10, 2007, European Union trademark registration No. 5383741, and subsequently it has been subject to numerous registrations throughout the world. Similarly, the Complainant owns European Union trademark registration No. 008844862 for the trademark IDO, registered on November 26, 2010.

The Complainant also owns a website at "www.ido.it" since April 11, 2005.

The disputed domain name was registered on July 7, 2022, and resolves to a website prominently featuring the Complainant's trademark, copying design of the Complainant's website, and offering for sale goods under the Complainant's trademark.

5. Parties' Contentions

A. Complainant

The disputed domain name is identical or confusingly similar to the Complainant's trademark. The disputed domain name fully includes the Complainant's trademark along with the descriptive term, "kids", which clearly identifies the age group for which the goods marked with the Complainant's trademark are intended. Since the Complainant's trademark is recognizable within the disputed domain name, the addition of the descriptive term "kids" does not prevent a finding of confusing similarity.

The Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has never authorized any person to register the disputed domain name, nor to commercialize its garments through the website at the disputed domain name. In fact, the website offers for sale original Complainant's clothing articles, without the authorization of the Complainant and makes unauthorized use of the registered trademark of the Complainant.

The disputed domain name was registered and is being used in bad faith. The disputed domain name is liable to create a likelihood of confusion with the Complainant's trademark, which is confirmed by the fact that the website at the disputed domain name contains trademark-abusive content: the Complainant's trademark is clearly displayed there. The goods offered for sale at the website on the disputed domain name are original Complainant's garments. The disputed domain name mirrors the Complainant's official website "www.ido.it", containing pictures of the original campaign and offering for sale clothing items of the 2022/2023 spring/summer and fall/winter collection. The website at the disputed domain name is evidently aimed at tricking users, who do not notice the minor differences in the website and URL, into buying items. The aim of the Respondent is to create a likelihood of confusion by suggesting to consumers that the disputed domain name is related to the Complainant. The Respondent decided to register the disputed domain name being well aware of the Complainant and its trademark with the aim of taking unfair advantage of the Complainant's trademark and making profit and commercial gain. It is implausible that the Respondent was unaware of the Complainant when the disputed domain name was registered.

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 term "kids" does not prevent finding 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 available evidence confirms that the Respondent is not commonly known by the disputed domain name, which could demonstrate its rights or legitimate interests (see, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones, TheDotCafe*, WIPO Case No. [D2008-0642](#)).

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 resolve Internet users to a website with a logo similar to the Complainant's and designed similarly to the Complainant's website to make the Internet users believe that they actually access the Complainant's website. Past UDRP panels confirmed that such actions prove a respondent 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, distributors, or service providers 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 *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#) (the "Oki 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 the Respondent failed to satisfy at least 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, contrary to the fact. As such, the Respondent's use of the disputed domain name cannot be considered *bona fide*.

Considering the above, the Panel finds 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 and famous 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 is resolving to a website featuring the Complainant's trademark and falsely pretended to be official Complainant's 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.

The Respondent ignored its possibility to comment on the contrary and provide any good explanations to prove its good faith while registering and using the disputed domain name.

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, <idokids.com>, be transferred to the Complainant.

/Taras Kyslyy/

Taras Kyslyy

Sole Panelist

Date: January 12, 2023