

## **ADMINISTRATIVE PANEL DECISION**

Reebok International Limited v. Bing Yue

Case No. D2022-2855

### **1. The Parties**

The Complainant is Reebok International Limited c/o Authentic Brands Group, United States of America (“United States”).

The Respondent is Bing Yue, China.

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

The disputed domain name, <reebokclassic-shop.com> (the “Domain Name”), 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 August 2, 2022. On August 3, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On August 4, 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 August 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 31, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 9, 2022.

The Center appointed Tony Willoughby as the sole panelist in this matter on September 26, 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 is a company incorporated under the laws of the United Kingdom with its registered office in London, England, which has for many decades manufactured and marketed sportswear under the brand name “Reebok”.

The name “Reebok” is protected by numerous trade mark registrations around the world including United States Trademark Registration No. 1133704 REEBOK (typed drawing) registered on April 22, 1980 (application filed on November 25, 1977) in class 25 for “shoes for use in athletic sports.”

The Complainant also uses a complex distinctive logo  which is the subject of many trade mark registrations including United States Trademark Registration No. 1848848 registered on August 9, 1994 (application filed on October 21, 1992) for a variety of goods in classes 18 and 25.

Another United States registration of a similar figurative mark bears the following description: “The mark consists of a stylized design of two quadrilaterals with curved sides below and to the left of a triangle with a curved side which is below and to the left of another triangle with curved sides”.

The Domain Name was registered on May 17, 2022 and is connected to a website offering for sale what appear to be the Complainant’s products on offer at a substantial discount. The Complainant’s REEBOK and logo trade marks feature prominently at the top of the home page and at the foot of the page is a copyright notice reading “Copyright 2022 © www.reebokclassic-shop.com”.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant contends that the Domain Name is confusingly similar to the Complainant’s REEBOK registered trade mark; that the Respondent has no rights or legitimate interests in respect of the Domain Name; and that the Domain Name has been registered and is being used in bad faith.

The essence of the Complainant’s case is that the Respondent is using the Domain Name to connect to a website selling counterfeit REEBOK goods, a website making liberal use of the Complainant’s trade marks, the REEBOK word mark and the logo, both of which are protected by trade mark registrations such as those described in section 4.

##### **B. Respondent**

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

## 6. Discussion and Findings

### A. Preliminary Point

This case was filed on the same day as *Reebok International Limited v. Ping Huang*, WIPO Case No. [D2022-2852](#) (“*Ping Huang*”), a case in which this Panel has issued a decision directing transfer of the Domain Name on the basis that the disputed domain name in that case (<reebokmarches.com>) had been registered and is being used in bad faith within the meaning of paragraph 4(b)(iv) of the Policy. The Panel declined to find that the Respondent’s website was offering counterfeit REEBOK products, because there was nothing in the complaint in that case, beyond an assertion and discounted prices, to support any such claim.

In substance, the Complaint in this case is very similar to the complaint in *Ping Huang*. The following passage from the decision in *Ping Huang* is directly applicable to this case:

“The Respondent has not responded to the Complainant’s contentions, but that does not mean that the Complaint automatically succeeds. The burden of proof still rests with the Complainant. Where a complaint is wholly based on unsupported and conclusory allegations the complaint will fail. However, a panel may draw inferences adverse to the respondent in the absence of a response where the circumstances of the case merit it. The issue is dealt with in greater detail in section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

The Complainant has asserted in section B.ii. of the Complaint that “[...] Respondent has been actively using the REEBOK trademarks in the domain names [*sic*] and on the physical website to promote its website for illegitimate commercial gains, more specifically, by operating a fake REEBOK website offering counterfeit REEBOK goods”. The evidence in support is a screenshot of the Respondent’s website showing prominent use of the Complainant’s logo at top left and numerous images of what appear to be the Complainant’s REEBOK products on offer at substantial discounts. [In this case the Respondent’s website featured the Complainant’s REEBOK trade mark and the logo at centre top of the homepage.]

Ordinarily, when complainants assert that the products the respondent is selling are counterfeit, some effort is made to assist the panel to make the desired finding. It could be the result of a trap order, or a close analysis of the photographed products featured on the website, or complaints from customers, or even, perhaps, a failure to respond to a cease and desist letter. Here, however, the Panel has nothing to go on apart from the Complainant’s bare assertion and the discounted prices.

In *Guccio Gucci S.p.A. v. Zhiyuan Zou, Zouzhi Zhou, Fujian Anfu*, WIPO Case No. [D2012-0888](#), a case involving GUCCI-branded products being sold at a significant discount, the panel in that case had at least one circumstance (other than the discounted prices) pointing to the likelihood that the goods were counterfeit, namely that several of the websites and one of the domain names in issue made express reference to the fact that the products were replica products.

It may of course be that the level of the discounted prices is sufficient to indicate that the products are counterfeit, but the Complainant has not provided any explanation and in the absence of an explanation the Panel is not prepared to assume that the Respondent is offering counterfeit REEBOK products through his website. It may also be that the Panel’s investigation into some of the links at the foot of the homepage (see below) might have assisted the Complainant’s case, but this was not something that the Complainant thought worth pursuing.”

In consequence, the Panel decided *Ping Huang* on the basis that the goods on the Respondent’s website were genuine goods of the Complainant.

The Panel's investigation into links at the bottom of the Respondent's homepage in *Ping Huang* revealed some oddities for a domain name owner named Ping Huang resident in China. For example, the "Termes et conditions" ("terms and conditions") link identified the owner of the website as a company operating under a different name and the "Nous contacter" ("contact us") link revealed an address in the United States. However, in the absence of any argument on the point in the complaint, there was nothing to enable the Panel to conclude that the Complainant's goods sold on the website were counterfeit. The mere fact that a website is dressed up to look like a website associated with the complainant may indicate no more than that the respondent is improperly seeking to boost sales of genuine goods, not necessarily counterfeit goods.

In this case, again, surprisingly the Complainant has undertaken no detailed investigation of the Respondent's website. However, the Panel's investigation into the links at the foot of the Respondent's homepage reveal that (a) the website in this case and *Ping Huang* are almost certainly associated (the "Term and Conditions" link and the "Contact Us" link are, apart from the names and addresses, almost identical in style and content), and significantly, (b) the "Contact Us" link in the Respondent's website discloses a blatantly false address in the United Kingdom. There can be no justifiable reason for providing customers with a false contact address. Counterfeiters understandably wish to remain anonymous and uncontactable.

Accordingly, in this case (unlike *Ping Huang*) the Panel has an additional reason to believe that on the balance of probabilities the Complainant's bald assertion that the Respondent's products are counterfeit is well-founded.

## **B. General**

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the Domain Name, the Complainant must prove each of the following, namely that:

- (i) the Domain Name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

## **C. Identical or Confusingly Similar**

The Domain Name comprises the Complainant's REEBOK trade mark followed by the dictionary word "classic", a hyphen, then the dictionary word "shop" and the ".com" generic Top-Level Domain identifier.

Section 1.7 of the [WIPO Overview 3.0](#) explains the test for identity or confusing similarity under the first element of the Policy and includes the following passage:

"While each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing."

The Complainant's REEBOK trade mark is readily recognizable in its entirety in the Domain Name. The Panel finds that the Domain Name is confusingly similar to a trade mark in which the Complainant has rights.

## **D. Rights or Legitimate Interests**

The Complainant recites the circumstances set out in paragraph 4(c) of the Policy, any of which if found by the Panel to be present shall demonstrate rights or legitimate interests for the purposes of this element of the Policy,

and contends that none of them is applicable.

The Panel accepts the Complainant's assertion that it has not authorized the Respondent's use of the REEBOK trade mark in this or any other way and finds that the Complainant has made out a *prima facie* case under this element of the Policy calling for an answer from the Respondent.

The Respondent has not provided an answer. Taking the lack of a response from the Respondent together with the finding in section 6.A that on the balance of probabilities the Respondent's website is indeed marketing counterfeit REEBOK products as asserted by the Complainant, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name. The use of a domain name to market counterfeit products can never give rise to rights or legitimate interests for the purpose of paragraph 4(a)(ii) of the Policy.

Even if, contrary to the Panel's finding above, the Respondent's products are not counterfeit, nonetheless the very nature of the Domain Name (featuring as it does the Complainant's primary trade mark alongside words appropriate to an authorised retailer of the Complainant's products) provides a further reason for questioning whether the Respondent has any rights or legitimate interests in respect of the Domain Name (see section 2.5.1 of the [WIPO Overview 3.0](#)).

#### **E. Registered and Used in Bad Faith**

The Panel is satisfied on the evidence that the Respondent registered the Domain Name for the purpose for which he is using it, namely to attract visitors to his website looking for REEBOK products and then to supply them with counterfeit products. If his customers wish to make contact, all that they have available to them is a false address, rendering the Respondent uncontactable.

The Panel finds that the Domain Name has been registered and is being used in bad faith within the meaning of paragraph 4(b)(iv) 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 Domain Name, <reebokclassic-shop.com>, be transferred to the Complainant.

*/Tony Willoughby/*

**Tony Willoughby**

Sole Panelist

Date: October 5, 2022