

ADMINISTRATIVE PANEL DECISION

Mou Limited v. 孙月兰 (sun yue lan) and Client Care, Web Commerce Communications Limited
Case No. D2022-4458

1. The Parties

Complainant is Mou Limited, United Kingdom, represented by SILKA AB, Sweden.

Respondents are 孙月兰 (sun yue lan), China, and Client Care, Web Commerce Communications Limited, Malaysia.

2. The Domain Names and Registrars

The disputed domain names <botasmouespana.com>, <moubootsaustralia.com>, <moubootsbelgie.com>, <moubootscanada.com>, <moubootsfrance.com>, <moubootsgreece.com>, <moubootshrvatska.com>, <moubootsnederland.com>, <moubootssaldi.com>, <moubootssaleoutlet.com>, <moubootsschweiz.com>, <moubootssrbija.com>, <moubootsturkey.com>, and <moubootsuk.com> are registered with Alibaba.com Singapore E-Commerce Private Limited; and the disputed domain name <mouhoessaleus.com> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the “Registrars”). The disputed domain names are hereinafter referred to as the “Domain Names”.

3. Procedural History

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 22, 2022. On November 22, 2022, the Center transmitted by email to the Registrars a request for registrar verification in connection with the Domain Names. On November 23, 2022, the Registrars transmitted by email to the Center verification responses disclosing registrant and contact information for the Domain Names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on November 23, 2022 providing the registrant and contact information disclosed by the Registrars, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint in English on November 28, 2022.

On November 23, 2022, the Center sent an email in English and Chinese to the Parties regarding the language of the proceeding. Complainant confirmed its request that English be the language of the proceeding on November 24, 2022. Respondents did not comment on the language of the proceeding.

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 Respondents in English and Chinese of the Complaint, and the proceedings commenced on November 30, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 20, 2022. Respondents did not submit any response. Accordingly, the Center notified Respondents’ default on December 21, 2022.

The Center appointed Kimberley Chen Nobles as the sole panelist in this matter on December 23, 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

Complainant is a company founded by Shelley Tichborne in 2002 in London, United Kingdom that provides footwear and accessories such as bags, wallets, hats and gloves for men, women and children. Complainant’s products are sold online and via selected boutiques and department stores worldwide.

Complainant is the owner of numerous registered trademarks internationally with the MOU mark, including:

- United States of America Trademark Registration number 3663689 for MOU (word mark), registered on August 4, 2009, in international class 25;
- United Kingdom Trademark Registration number UK00002432785 for MOU (figurative mark), registered on June 15, 2007, in international classes 3, 24 and 25;
- European Union Trademark Registration number 008164204 for MOU (figurative mark), registered on December 11, 2009, in international classes 3, 18 and 25;
- International Trademark Registration number 1005206 for MOU (figurative mark), registered on April 28, 2009, in international class 18, designating, *inter alia*, China;
- Chinese Trademark Registration number 3933443 for 灵鼠儿 MOU (figurative mark), registered on April 28, 2007, in international class 25;
- Chinese Trademark Registration number 22741336A for MOU (word mark), registered on March 14, 2018, in international class 25; and
- Chinese Trademark Registration number 22741337 for MOU (word mark), registered on April 21, 2018, in international class 18.

Complainant also owns and operates several websites, including the domain names <mou-online.com> (registered on January 26, 2006, which hosts a website that displays information about Complainant and its products) and <mou-online.com.cn> (registered in 2018, which resolves to the website at “www.mou-online.com”).

The respective Domain Names were registered as noted below:

- (1) <botasmouespana.com>, registered on October 20, 2022.
- (2) <moubootsaustralia.com>, registered on October 20, 2022.
- (3) <moubootsbelgie.com>, registered on October 20, 2022.
- (4) <moubootscanada.com>, registered on October 20, 2022.
- (5) <moubootsfrance.com>, registered on October 20, 2022.
- (6) <moubootsgreece.com>, registered on October 20, 2022.
- (7) <moubootshrvatska.com>, registered on October 20, 2022.
- (8) <moubootsnederland.com>, registered on October 20, 2022.
- (9) <moubootssaldi.com>, registered on October 20, 2022.

- 10) <moubootsschweiz.com>, registered on October 20, 2022.
- 11) <moubootssrbija.com>, registered on October 20, 2022.
- 12) <moubootsturkey.com>, registered on October 20, 2022.
- 13) <moubootssaleoutlet.com>, registered on October 20, 2022.
- 14) <moubootsuk.com>, registered on October 20, 2022.
- 15) <moushoessaleus.com> on September 8, 2022.

Before filing of the Complaint, the Domain Names each resolved to websites that displayed content that was almost identical or very similar to Complainant's website. All the Domain Names (except for <botasmouespana.com> and <moushoessaleus.com>) were inactive at the time of the filing of the Complaint. At the time of the Decision, all the Domain Names with the exception of <botasmouespana.com> resolve to inactive webpages.

5. Parties' Contentions

A. Complainant

Complainant contends that (i) the Domain Names are identical or confusingly similar to Complainant's trademarks; (ii) Respondents have no rights or legitimate interests in the Domain Names; and (iii) Respondents registered and are using the Domain Names in bad faith.

In particular, Complainant contends that it has trademark registrations for MOU and that Respondents registered and are using the Domain Names with the intention to confuse Internet users looking for *bona fide* and well-known MOU products and services.

Complainant notes that it has no affiliation with Respondents, nor authorized Respondents to register or use a domain name, which includes Complainant's trademarks, and that Respondents have no rights or legitimate interests in the registration and use of the Domain Names. Rather, Complainant contends that Respondents have acted in bad faith in acquiring and setting up the Domain Names, when Respondents clearly knew of Complainant's rights.

B. Respondents

Respondents did not reply to Complainant's contentions.

6. Discussion and Findings

6.1. Preliminary Issue: Consolidation of Multiple Respondents

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder. However, the Panel does not consider that paragraph 3(c) was intended to enable a single person or entity to put a complainant to the unnecessary time, expense and effort of initiating multiple proceedings against technically different domain name registrants, particularly when each registration raises the same issues. In addressing Complainant's request, the Panel will consider whether (i) the Domain Names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.11.2.

Panels have considered a range of factors, typically present in some combination, as useful to determining whether such consolidation is appropriate, such as similarities in or relevant aspects of (i) the registrants' identity(ies) including pseudonyms, (ii) the registrants' contact information including email address(es), postal address(es), or phone number(s), including any pattern of irregularities, (iii) relevant IP addresses, name servers, or webhost(s), (iv) the content or layout of websites corresponding to the disputed domain names,

(v) the nature of the marks at issue (e.g., where a registrant targets a specific sector), (vi) any naming patterns in the disputed domain names (e.g., <mark-country> or <mark-goods>), (vii) the relevant language/scripts of the disputed domain names particularly where they are the same as the mark(s) at issue, (viii) any changes by the respondent relating to any of the above items following communications regarding the disputed domain name(s), (ix) any evidence of respondent affiliation with respect to the ability to control the disputed domain name(s), (x) any (prior) pattern of similar respondent behavior, or (xi) other arguments made by the complainant and/or disclosures by the respondent(s).

Complainant mainly asserts that: the 15 Domain Names were previously connected to websites with identical content and structure; the 15 Domain Names were registered within a short period of time, with 14 out of 15 of the Domain Names (items 1-14 above under section 4) were registered on the same day (October 20, 2022), with the same Registrar Alibaba.com Singapore E-Commerce Private Limited; and all of the Domain Names target Complainant's MOU mark. They each have the same structure including the use of the MOU mark in its entirety, together with country names and generic terms related to Complainant's products or business activities (such as "boots", "shoes" or "sale").

All of the above circumstances when considered together indicate that Complainant and Complainant's trademarks are the common and sole target for the registration and use of the Domain Names by probably the same individual (operating with different aliases) or two individuals acting in a concerted manner. It is more likely than not that the Domain Names are under common control. In addition, it would be cumbersome, costly and results in delay if Complainant would be required to initiate separate proceedings, noting that both Respondents have chosen not to participate in this proceeding, and particularly not to object Complainant's request for consolidation of multiple Respondents in a single proceeding.

Based on the foregoing, the Panel finds that consolidation would be fair and equitable to all Parties, and therefore grants Complainant's request to consolidate the two Respondents in a single complaint. Therefore, two Respondents are hereinafter collectively referred to as "Respondent" below.

6.2. Preliminary Issue: Language of the Proceeding

The Rules, in paragraph 11(a), provide that unless otherwise agreed by the parties or specified otherwise in the registration agreement between the respondent and the registrar in relation to the disputed domain name, the language of the proceeding shall be the language of the registration agreement, subject to the authority of the panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

Complainant submitted its original Complaint in English. In its email dated November 24, 2022, Complainant confirmed its request that the language of the proceeding should be English. According to the information received from the Registrar Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn), the language of the Registration Agreement for the Domain Name <moushoessaleus.com> is Chinese.

Complainant contends that the Domain Names are formed by words in the English language, previously resolved to the English language websites providing content in English, and that Respondent is targeting Complainant's trademarks, websites and businesses in Complainant's language of operation, which is English. Complainant also contends that it would be unfairly burdensome for Complainant to translate and conduct the proceeding in Chinese and would also cause unnecessary delay in the proceeding.

In exercising its discretion to use a language other than that of the Registration Agreement for the Domain Name <moushoessaleus.com>, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both Parties, taking into account all relevant circumstances of the case, including matters such as the Parties' ability to understand and use the proposed language, time and costs.

The Panel accepts Complainant's submissions regarding the language of the proceeding. The Panel notes that the Center notified the Parties in Chinese and English of the language of the proceeding as well as notified Respondent in Chinese and English of the Complaint. Respondent chose not to comment on the

language of the proceeding nor did Respondent choose to file a Response.

The Panel is also mindful of the need to ensure that the proceeding is conducted in a timely and cost-effective manner. Complainant may be unduly disadvantaged by having to translate the Complaint into Chinese and to conduct the proceeding in Chinese. Further, the Panel also notes that the language of Registration Agreements for the remaining 14 Domain Names is in English.

Having considered all the circumstances of this case, the Panel determines that English be the language of the proceeding.

6.3. Substantive Issues

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

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

Section 4.3 of the [WIPO Overview 3.0](#) states that failure to respond to the complainant's contentions would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true.

Thus, although in this case Respondent has failed to respond to the Complaint, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence.

A. Identical or Confusingly Similar

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See [WIPO Overview 3.0](#), section 1.2.1. Complainant provided evidence of its rights in the MOU trademarks, as noted above under section 4. Complainant has also submitted evidence, which supports that the MOU trademarks are widely known and a distinctive identifier of Complainant's products and services. Complainant has therefore proven that it has the requisite rights in the MOU trademarks.

With Complainant's rights in the MOU trademarks established, the remaining question under the first element of the Policy is whether the Domain Names, typically disregarding the Top-Level Domain ("TLD") in which it is registered (in this case is, ".com"), are identical or confusingly similar to Complainant's trademark. See, e.g., *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#).

Here, the Domain Names are confusingly similar to Complainant's MOU trademarks. These MOU trademarks are recognizable in the Domain Names, as illustrated below:

Domain Names	Added terms to MOU in the respective Domain Name
<botasmouespana.com>	"botas" (boots in Portuguese) and "espana" (country name of Spain)
<moubootsaustralia.com>	"boots" and "australia"
<moubootscanada.com>	"boots" and "canada"
<moubootsfrance.com>	"boots" and "france"
<moubootsgreece.com>	"boots" and "greece"
<moubootshrvatska.com>	"boots" and "hrvatska" (country name of Croatia)
<moubootsnederland.com>	"boots" and "nederland" (country name of Netherlands)

<moubootssaldi.com>	“boots” and “saldi” (sales in Italian)
<moubootsschweiz.com>	“boots” and “schweiz” (country name of Switzerland)
<moubootssrbija.com>	“boots” and “srbija” (country name of Serbia)
<moubootsturkey.com>	“boots” and “turkey” (country name of Türkiye)
<moubootssaleoutlet.com>	“boots”, “sale” and “outlet”
<moushoessaleus.com>	“shoes”, “sale” and “us”
<moubootsuk.com>	“boots” and “uk”
<moubootsbelgie.com>	“boots” and “belgie” (country name of Belgium)

In particular, the Domain Names’ inclusion of Complainant’s trademark MOU in its entirety, in each case, with an addition of one or more terms as noted in the chart above, such as the addition of the terms “boots” and/or “sale” and/or a country name, does not prevent a finding of confusing similarity between each of the Domain Names and the MOU trademarks. See [WIPO Overview 3.0](#), section 1.8.

Thus, the Panel finds that Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make a *prima facie* showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with relevant evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

From the record in this case, it is evident that Respondent was, and is, aware of Complainant and its MOU trademarks, and does not have any rights or legitimate interests in the Domain Names. Complainant has confirmed that Respondent is not affiliated with Complainant, or otherwise authorized or licensed to use the MOU trademarks or to seek registration of any domain name incorporating the trademarks. Respondent is also not known to be associated with the MOU trademarks and there is no evidence showing that Respondent has been commonly known by the Domain Names.

In addition, Respondent has not used the Domain Names in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. Rather, Complainant asserts that each of the Domain Names previously directed to a respective website that displayed content that was almost identical or very similar to Complainant’s website. In particular, the Domain Names resolved to websites that appeared to feature and offer boots and other footwear products, which were identical or very similar to those offered by Complainant on Complainant’s website. Respondent’s websites also include unauthorized reproduction of Complainant’s MOU marks, and copyrighted material from Complainant’s website, and included copyright notices which could mislead Internet users into thinking that the respective websites were authorized, operated by or affiliated with Complainant, and offered MOU-branded products for sale at a substantial discount, all of which have not been rebutted by Respondent. Such use does not constitute a *bona fide* offering of goods or services or a legitimate noncommercial or fair use and cannot under the circumstances confer on Respondent any rights or legitimate interests in the Domain Names. See, e.g., *Intesa Sanpaolo S.p.A. v. Charles Duke / Oneandone Private Registration*, WIPO Case No. [D2013-0875](#). At the time of the Decision, the Domain Names with the exception of <botasmouespana.com> resolve to inactive webpages.

Accordingly, Complainant has provided evidence supporting its *prima facie* claim that Respondent lacks any rights or legitimate interests in the Domain Names. Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the Domain Names. Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the Domain Names and Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Respondent's actions indicate that Respondent registered and is using the Domain Names in bad faith.

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, namely:

"(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) 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."

The Panel finds that Complainant has provided ample evidence to show that registration and use of the MOU trademarks long predate the registration of the Domain Names. Complainant is also well established and known. Indeed, the record shows that Complainant's MOU trademarks and related products and services are widely known and recognized. Therefore, Respondent was likely aware of the MOU trademarks when it registered the Domain Names, or knew or should have known that each of the Domain Names was confusingly similar to Complainant's trademarks. See [WIPO Overview 3.0](#), section 3.2.2; See also *TTT Moneycorp Limited v. Privacy Gods / Privacy Gods Limited*, WIPO Case No. [D2016-1973](#).

The Panel therefore finds that Respondent's awareness of Complainant's trademark rights at the time of registration suggests bad faith. See *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#); *Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite*, WIPO Case No. [D2001-1070](#); and *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#).

Further, the registration of the Domain Names incorporating Complainant's MOU trademark in its entirety suggests Respondent's actual knowledge of Complainant's rights in the MOU trademarks at the time of registration of the Domain Names and its effort to opportunistically capitalize on the registration and use of the Domain Names. Moreover, the additional terms in the Domain Names are also directly associated with Complainant's business activities in the field of boots and related footwear products, further indicating Respondent's actual knowledge of Complainant and its trademarks, and that Respondent's registration of each of the Domain Names was in bad faith.

In addition, the evidence provided by Complainant has shown that each of the Domain Names directed to a respective website that displays content that was almost identical or very similar to Complainant's website. In particular, the Domain Names resolved to websites that appeared to feature and offer boots and other footwear products, which were identical or very similar to those offered by Complainant on Complainant's website.

Respondent's websites also included unauthorized reproduction of Complainant's MOU marks, and copyrighted material from Complainant's website, and included copyright notices which could mislead

Internet users into thinking that the respective websites were authorized, operated by or affiliated with Complainant, and offered MOU-branded products for sale at a substantial discount, all of which have not been rebutted by Respondent. Such use cannot be considered in good faith.

Moreover, Respondent registered and is using the Domain Names to confuse and mislead consumers looking for *bona fide* and well-known MOU products and services of Complainant or authorized partners of Complainant. The use of the MOU mark as the dominant part of the Domain Names is intended to capture Internet traffic from Internet users who are looking for Complainant's products and services. Such use and association of the Domain Names to divert users to webpages that appeared to imitate Complainant's website, could result in causing confusion with Complainant's business activities. It may confuse Internet users who are looking for Complainant's legitimate website and deceive Internet users into thinking that Respondent is somehow connected to Complainant, which is not the case.

All of the Domain Names (except for <botasmouespana.com> and <moushoessaleus.com>) were inactive at the time of the filing of the Complaint. At the time of the Decision, all the Domain Names with the exception of <botasmouespana.com> resolve to inactive webpages. In this regard, [WIPO Overview 3.0](#), section 3.3 states that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding.

Further, the Panel also notes the failure of Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and the implausibility of any good-faith use to which the Domain Names may be put.

Accordingly, the Panel finds that Respondent registered and is using the Domain Names in bad faith and Complainant succeeds under the third element of 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 Domain Names, <botasmouespana.com>, <moubootsaustralia.com>, <moubootsbelgie.com>, <moubootscanada.com>, <moubootsfrance.com>, <moubootsgreece.com>, <moubootshrvatska.com>, <moubootsnederland.com>, <moubootssaldi.com>, <moubootssaleoutlet.com>, <moubootsschweiz.com>, <moubootssrbija.com>, <moubootsturkey.com>, <moubootsuk.com>, and <moushoessaleus.com>, be transferred to Complainant.

/Kimberley Chen Nobles/

Kimberley Chen Nobles

Sole Panelist

Date: January 5, 2023