

ADMINISTRATIVE PANEL DECISION

Les Productions Dime inc. v. Haiyan guo
Case No. D2023-1136

1. The Parties

The Complainant is Les Productions Dime Inc., Canada, represented by Welsh Flaxman & Gitler LLC, United States of America (“United States”).

The Respondent is Haiyan guo, China.

2. The Domain Name and Registrar

The disputed domain name <dimeus-shop.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 March 14, 2023. On March 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 16, 2023, 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 March 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 10, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 12, 2023.

The Center appointed Miguel B. O’Farrell as the sole panelist in this matter on April 17, 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, Les Productions Dime Inc., is involved in the clothing and fashion accessories business and is the owner of United States Trademark Registration No. 6,592,599 DIME, registered on December 21, 2021, filed under serial No. 87,983,886 on October 4, 2016 with declared first use in commerce on May 30, 2014, covering clothing and accessories, namely, coats, jackets, beanies, caps, socks, gloves, polo shirts, rugby shirts, sweaters and belts in class 25, and with declared first use in commerce on December 30, 2012, covering online retail store services featuring clothing and fashion accessories in class 35.

The disputed domain name <dimeus-shop.com> was registered on September 13, 2022 and resolves to a webpage offering for sale items of clothing and accessories under the trademark DIME.

5. Parties' Contentions

A. Complainant

The Complainant claims that the disputed domain name is confusingly similar to the DIME trademark. The Respondent has no rights or legitimate interests in respect of the disputed domain name which it is using to infringe the Complainant's trademark rights and thereby misleading the public into believing the goods are those of the Complainant. The Respondent has acquired no rights in the Complainant's mark and brand and is not making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or tarnish the trademark or service mark at issue.

The disputed domain name was registered and is being used in bad faith by the Respondent for the sole purpose to mislead the public. By using the disputed domain name, the Respondent intentionally attempts to attract for commercial gain Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to source, sponsorship, affiliation or endorsement on the Respondent's website or product or service of the Respondent's website.

Finally, the Complainant requests the Panel to issue a decision ordering that the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

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

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

A. Identical or Confusingly Similar

As set forth in section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name to determine whether the disputed domain name is confusingly similar to the trademark. The test involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The Panel considers that the disputed domain name is confusingly similar to the Complainant's DIME trademark.

The disputed domain name incorporates the Complainant's trademark DIME in its entirety with the addition of "us-shop", which does not prevent a finding of confusing similarity. See section 1.8 of the [WIPO Overview 3.0](#).

The ".com" generic Top-Level Domain ("gTLD") is viewed as a standard registration requirement and is generally disregarded under the first element confusing similarity test, as set forth in section 1.11 of the [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the trademark DIME in which the Complainant has rights and that the requirements of paragraph 4(a)(i) of the Policy are fulfilled.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out the following several circumstances which, without limitation, if found by the Panel, shall demonstrate that the respondent has rights to or legitimate interests in the disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

(i) before any notice to the respondent of the dispute, the respondent's use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with a *bona fide* offering of goods or services; or

(ii) the respondent (as an individual, business, or other organization) has been commonly known by the [disputed] domain name, even if the respondent has acquired no trademark or service mark rights; or

(iii) the respondent is making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Complainant has proved that it owns the DIME trademark. There is no indication that the Complainant has licensed or otherwise permitted the Respondent to use any of the Complainant's trademarks, nor has the Respondent been permitted to apply for or use any domain name incorporating the trademark DIME.

There is no evidence in the present case that the Respondent has been commonly known by the disputed domain name, enabling it to establish rights or legitimate interests therein. The name of the Respondent does not resemble the disputed domain name in any manner.

The disputed domain name resolves to a website offering for sale items of clothing and accessories under the trademark DIME. Therefore, there is no evidence in the file to prove any of the circumstances mentioned in paragraph 4(c) of the Policy, nor any other element to prove that the Respondent has rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that the Complainant has made out a *prima facie* case, a case calling for an answer from the Respondent. The Respondent has not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name.

Moreover, the Panel finds that the disputed domain name is inherently misleading as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy have been fulfilled.

C. Registered and Used in Bad Faith

The Panel is satisfied that the Respondent must have been aware of the Complainant's trademark DIME mentioned in section 4 above (Factual Background) when it registered the disputed domain name on September 13, 2022 particularly considering the use of the DIME trademark on the website associated with the disputed domain name.

The Respondent, when registering the disputed domain name, has targeted the Complainant's trademark DIME with the intention to capitalize on the fame of the Complainant's trademark for its own monetary benefit. Moreover, the addition of "us-shop" after the Complainant's DIME trademark contributes to the confusion among Internet users.

The fact that there is a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the disputed domain name is also a significant factor to consider that the disputed domain name was registered in bad faith (as stated in section 3.2.1 of the [WIPO Overview 3.0](#)).

The Panel finds that the Respondent has registered and is intentionally using the disputed domain name for a website offering for sale the products under the DIME trademark to attempt to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's DIME trademark as to the source, sponsorship, affiliation, or endorsement. This amounts to bad faith under paragraph 4(b)(iv) of the Policy.

The Panel finds that the Respondent has registered and is using the disputed domain name in bad faith and that the requirements of paragraph 4(a)(iii) of the Policy have been fulfilled.

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 <dimeus-shop.com> be transferred to the Complainant.

/Miguel B. O'Farrell/

Miguel B. O'Farrell

Sole Panelist

Date: April 24, 2023