

## **ADMINISTRATIVE PANEL DECISION**

Lemon Inc. v. Aley emmy, Saba Bibi  
Case No. D2023-3389

### **1. The Parties**

The Complainant is Lemon Inc., United Kingdom, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondents are Aley emmy, Pakistan, and Saba Bibi, Pakistan (the “First Respondent” and “Second Respondent”, respectively).

### **2. The Domain Names and Registrars**

The disputed domain name <capcuty.com> is registered with <GoDaddy.com>, LLC (the “First Registrar”).

The disputed domain name <capscut.com> is registered with NameCheap, Inc. (the “Second Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 8, 2023. On August 8, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On August 8 and 10, 2023, the Second Registrar and First Registrar transmitted by email to the Center their verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondents (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf and Registration Private, and Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 17, 2023, 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 amended Complaint on August 22, 2023.

The Center verified that the Complaint together with the amended 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 23, 2023. In accordance with the Rules,

paragraph 5, the due date for Response was September 12, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 14, 2023.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on September 27, 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 is Lemon Inc., from the United Kingdom.

The Complainant is affiliated with Bytedance Ltd, which is an Internet technology company that enables users to content platforms. It owns a series of products that enable users to connect with consuming and creating content, including TikTok, Helo, and Resso.

Bytedance globally launched a mobile application called CapCut in April 2020. CapCut is a video editing app that allows users to add a trove of stickers, filters and effects.

The Complainant is the owner of several CAPCUT trademarks registered before the registration of the disputed domain names, such as:

TRADEMARK	JURISDICTION	REGISTRATION NO.	REGISTRATION DATE	CLASS
CAPCUT	United States	6847261	September 13, 2022	9
CAPCUT	United Kingdom	UK00003501065	March 5, 2021	9, 41, 42
CAPCUT	European Union	018255581	May 15, 2021	9, 41, 42, 45

The Complainant also owns a website advertising services under the trademark CAPCUT, found at "www.capcut.com", registered on March 29, 1997.

The disputed domain names <capcuty.com> and <capscut.com> were registered on June 3, 2023 and June 29, 2022, respectively. Both resolve to a webpage offering video app editing services.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant argues that the disputed domain names reproduce the Complainant's trademark CAPCUT, varying by only one letter, namely the addition of the "s" in <capscut.com> and the addition of the "y" in <capcuty.com>.

Moreover, as both disputed domain names differ from the Complainant's trademark by just one letter, they must be considered a prototypical example of typo-squatting, which intentionally takes advantage of Internet users that inadvertently type an incorrect address when seeking to access the trademark owner's website.

According to the Complainant, the Respondents have no rights or legitimate interests in respect of the disputed domain names and there is no evidence that the Respondents have been commonly known by the disputed domain names as an individual, business, or other organization.

The Complainant informs that it has not authorized the use of its earlier trademark in the disputed domain names in any manner or form.

The Complainant mentions that it is impossible that the Respondents did not have the Complainant's trademark CAPCUT in mind when registering the disputed domain names.

The Complainant argues that the disputed domain names resolves to the same website at "www.capcuty.com", which offers CAPCUT users complete free tutorials for PC and unauthorized downloading of the CAPCUT software. This use suggests that the Respondents intended that the disputed domain names were confusingly similar to the Complainant's trademark to intentionally cause consumer confusion.

As per the Complainant, the Respondents' inclusion of the Complainant's logo on the website "www.capcuty.com", to which both the disputed domain names resolves, is a direct effort to take advantage of the fame and goodwill that the Complainant has built in its brand. The Complainant also stresses that the Respondents are not only using the confusingly similar disputed domain names, but are also displaying the Complainant's logo on the cited website.

Finally, the Complainant requests the transfer of the disputed domain names.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 Procedural Consideration: Consolidation of Multiple Respondents**

The Complainant points to a number of factors that it argues justify consolidation of these proceedings relating to two disputed domain names with different registrant information. No objection to this request was made by either Respondent.

Pursuant to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2, "[w]here a complaint is filed against multiple respondents, panels look at 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. Procedural efficiency would also underpin panel consideration of such a consolidation scenario".

Here, the Panel notes that both disputed domain names are typo-squatting variations of the Complainant's distinctive trademark and the disputed domain name <capscut.com> redirects to the website hosted at the disputed domain name <capcuty.com>. Furthermore, the Complainant has provided evidence demonstrating that the Respondents are both located in the same town based on the Registrar-disclosed information.

Therefore, the Panel finds it more likely than not that the disputed domain names are under common control that consolidation would be proper. Hereinafter, the Panel will refer to the Respondents jointly as the "Respondent".

### **6.2 Substantive Consideration**

As per paragraph 4(a) of the Policy, the Complainant must prove that:

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

## **A. Identical or Confusingly Similar**

The evidence presented demonstrates that the Complainant is the owner of several trademark registrations for CAPCUT.

The disputed domain names incorporate the Complainant's CAPCUT trademark adding one letter each. This addition does not prevent a finding of confusing similarity between the disputed domain names and the Complainant's trademark. See section 1.9, [WIPO Overview 3.0](#).

As numerous prior UDRP panels have recognized, the incorporation of a trademark in its entirety or a dominant feature of a trademark is sufficient to establish that a domain name is identical or confusingly similar to the Complainant's registered mark. See section 1.7, [WIPO Overview 3.0](#).

The Panel understands that the present dispute is a clear case of typo-squatting.

The Panel finds that paragraph 4(a)(i) of the Policy has been proved by the Complainant, *i.e.*, the disputed domain names are confusingly similar to the Complainant's trademarks.

## **B. Rights or Legitimate Interests**

There is no evidence that the Respondent has any authorization to use the Complainant's trademark or to register the disputed domain names containing the trademark CAPCUT.

There is no evidence that the Respondent is commonly known by the disputed domain names.

There is no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain names or that before any notice of the dispute the Respondent has made use of, or demonstrable preparations to use the disputed domain names or a name corresponding to the disputed domain names in connection with a *bona fide* offering of goods or services. Rather, the disputed domain names are used for the identical purpose of hosting a website allegedly offering services identical to those of the Complainant under the Complainant's trademark. Evidently, the Respondent seeks to impersonate the Complainant via the disputed domain names, given their inherently misleading construction and the associated content. Such use cannot confer rights or legitimate interests upon a respondent.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(ii) of the Policy has been satisfied, *i.e.*, the Respondent has no rights or legitimate interests in the disputed domain name.

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

The trademark CAPCUT is registered by the Complainant in many jurisdictions and is in use by the Complainant. The Complainant's trademarks predate the registration of the disputed domain names. The disputed domain names reproduce the Complainant's CAPCUT trademark with the addition of one letter.

The disputed domain names and the corresponding website reproduce the Complainant's trademark CAPCUT and the Complainant's logo. Besides, the Respondent has no rights or legitimate interests in the disputed domain names.

Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See section 3.1.4, [WIPO Overview 3.0](#).

Moreover, the disputed domain names resolve to a webpage offering the unauthorized download of the CAPCUT software.

The impression given by the disputed domain names and the website “www.capcuty.com” lead consumers to believe that the Respondent is somehow associated with the Complainant.

The Respondent’s actions create a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the disputed domain names, and the Respondent is thus using the fame of the Complainant’s trademarks to improperly increase traffic to the website listed at the disputed domain names for the Respondent’s own commercial gain. According to Policy 4(b)(i), this behavior can be considered evidence of registration and use of a domain name in bad faith.

Therefore, this Panel finds that the disputed domain names are inherently likely to mislead Internet users, and the Respondent’s use of the disputed domain names in this manner indicates neither a *bona fide* offering of goods or services under Policy, nor a noncommercial or fair use of the disputed domain name under Policy.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(iii) of the Policy has been satisfied, *i.e.*, the disputed domain names have been registered and used in bad faith.

## **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 names, <capcuty.com> and <capscut.com>, be transferred to the Complainant.

*/Mario Soerensen Garcia/*

**Mario Soerensen Garcia**

Sole Panelist

Date: October 11, 2023