

ADMINISTRATIVE PANEL DECISION

Baker Tilly Strego v. hao heng yang
Case No. D2023-3579

1. The Parties

The Complainant is Baker Tilly Strego, France, represented by Law Firm Oratio Avocats, France.

The Respondent is hao heng yang, China.

2. The Domain Name and Registrar

The disputed domain name <cestrego.com> is registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on August 24, 2023. On August 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 28, 2023, 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 (UNKNOWN) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 6, 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 in English on September 8, 2023.

On September 6, 2023, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On September 8, 2023, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 in English and Chinese of the Complaint, and the proceedings commenced on September 12, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 2, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 5, 2023.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on October 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 is a company incorporated under French law as an independent legal entity but is also a part of the international BAKER TILLY group of companies. This group of companies is a well-known accounting network, ranking amongst the ten biggest accounting networks with the fifth highest fee income in 2022, according to a survey published by the international accounting bulletin. The Complainant particularly uses the mark STREGO in relation to its provision of administration services relating to business transactions and financial records.

Under French law, the Complainant is required to set up a works council with a budget dedicated to sponsoring social and cultural activities for its employees, and such council is customarily abbreviated to in France as "ce". Therefore, the Complainant states that it had registered the disputed domain name (comprising of the term "ce" combined with its mark STREGO) to host a website for its employees to browse through the cultural activities offered and get financial support for their social and cultural events. However, subsequently, the Complainant let the disputed domain name expire and it was then registered by the Respondent on April 4, 2023.

The Complainant provides evidence that it owns a trademark portfolio for STREGO, including, but not limited to, French trademark registration number 3699183 for the STREGO logo mark, registered on May 21, 2010, and French trademark registration number 3699200 for the STREGO logo mark registered on May 21, 2010.

The disputed domain name was registered on April 4, 2023, and directs to an active webpage containing pornographic content.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to its trademark for STREGO, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered, and is being used in bad faith to divert Internet users to the Respondent's webpage containing pornographic material.

The Complainant essentially contends that the disputed domain name is confusingly similar to the Complainant's trademark as it incorporates the Complainant's STREGO trademark in its entirety, with the only differing element being the addition of the allegedly descriptive prefix "ce" to the disputed domain name.

The Complainant also claims that the disputed domain name is linked to an active webpage containing pornographic content, which, the Complainant argues, confers no legitimate interest in the disputed domain name on the Respondent, and which means that the Respondent is tarnishing the Complainant's trademarks and gaining a commercial benefit through such use of the Complainant's marks. The Complainant also argues that the Respondent had or can be expected to have had prior notice of the Complainant's trademarks at the time the disputed domain name was registered, since the Complainant registered its trademarks for STREGO years prior to the registration of the disputed domain name and since these marks are used intensively. The Complainant essentially contends that the registration and use of the disputed domain name in such circumstances constitutes registration and use in bad faith.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that English is the most common language used in international business, that the Complainant is based in France and speaks French and pursuing the proceedings in Chinese, a language the Complainant does not understand, would inevitably place them at a disadvantage compared to the Respondent.

The Respondent did not make any specific submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, 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 (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name, [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms here, “ce”, may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8. Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Moreover, upon review of the facts and evidence, the Panel notes that the disputed domain name resolves to an active webpage containing pornographic content. In the Panel’s view, no rights or legitimate interests derive from using a third-party trademark to divert Internet users for commercial gain to a pornographic website, see in this regard also several prior UDRP decisions such as *Barnes Europe Consulting Kft., and Heidi Barnes-Watson v. jianhua Wang*, WIPO Case No. [D2022-3059](#); *Seintec Norte, S.L. v. yu Liu, wangluochuanmei*, WIPO Case No. [D2021-1815](#); *Andrey Ternovskiy dba Chatroulette v. Protection of Private Person / Aleksandr Katkov*, WIPO Case No. [D2017-0381](#); and *Averitt Express, Inc. v. Protection of Private Person / Roman Emec*, WIPO Case No. [D2018-0249](#).

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent registered the disputed domain name, which is confusingly similar to, and entirely encompasses, the Complainant’s trademark to connect it to a pornographic website. The Panel also notes that the disputed domain name used to be owned by the Complainant before it expired, and was allegedly used by the Complainant to direct to a website containing the cultural activities offered by the Complainant and to provide financial support for the Complainant’s employees’ social and cultural events (hence the use of the abbreviation “ce” which allegedly customarily refers to the “social and economic committee” in French companies). Furthermore, the Panel also notes that the Complainant’s trademarks for STREGO were registered years before the registration date of the disputed domain name. The Panel deducts from these elements that the Respondent seems to have opportunistically registered the disputed domain name containing the Complainant’s trademarks when it became available for registration. The Panel also notes that the Respondent should have known that the Complainant owns trademarks STREGO, as even a cursory Internet search at the time of registration of the disputed domain name would have made it clear to the Respondent that the Complainant owned prior rights in its trademarks

for STREGO. In the Panel's view, these elements indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain name in bad faith.

As to use of the disputed domain name in bad faith, the website linked to the disputed domain name displays pornographic content, which shows that the Respondent is abusing the Complainant's trademark to mislead and divert Internet users for commercial gain to such website, and thereby also tarnishes the Complainant's marks (see in this regard also previous UDRP decisions such as *Barnes Europe Consulting Kft., and Heidi Barnes-Watson v. jianhua Wang, supra*; *Seintec Norte, S.L. v. yu Liu, wangluochuanmei, supra*; and *Averitt Express, Inc. v. Protection of Private Person / Roman Emec, supra*). The Panel accepts this as clear evidence of bad faith use of the disputed domain name by the Respondent.

Based on the available record, the Panel finds the third element of the Policy has been established.

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 <cestrego.com> be transferred to the Complainant.

/Deanna Wong Wai Man/
Deanna Wong Wai Man
Sole Panelist
Date: October 30, 2023