

ADMINISTRATIVE PANEL DECISION

Bulgari S.p.A. v. 王先生 (Wang Xian Sheng)

Case No. D2022-3054

1. The Parties

The Complainant is Bulgari S.p.A., Italy, represented by SafeNames Ltd., United Kingdom.

The Respondent is 王先生 (Wang Xian Sheng), China.

2. The Domain Name and Registrar

The disputed domain name <bulgarix.com> is registered with Hongkong Domain Name Information Management Co., Limited (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on August 18, 2022. On August 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 19, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on August 19, 2022, 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 August 24, 2022.

On August 19, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On August 24, 2022, the Complainant submitted its request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 August 30, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 19, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 20, 2022.

The Center appointed Rachel Tan 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

Founded in 1884 by Sotirious Voulgaris, the Complainant is an Italian company operating in the luxury goods and hotel industry, particularly known for high-end jewelry. Headquartered in Rome, Italy, the Complainant has more than 230 retail locations worldwide. The company name “Bulgari” is derived from the Italianized version of the founder’s surname. The Complainant’s trade mark is both written as “BVLGARI” in the classic Latin alphabet and “BULGARI” in the modern alphabet. The terms “bvlgari” and “bulgari” are often used synonymously.

The Complainant is the owner of a range of trade mark registrations for the BULGARI mark. For example, Australia Registration No. 338663 in class 14, registered on October 5, 1979; United States of America Registration No. 1184684 in class 14, registered on January 5, 1982; and International Registration No. 452694 in classes 11, 14, 20, and 21, registered on May 15, 1980.

The Complainant is also the owner of the domain name <bulgari.com> registered on February 17, 1998, which is its official website address.

The Respondent is 王先生 (Wang Xian Sheng), China.

The disputed domain name was registered on March 16, 2022. According to the evidence provided by the Complainant, the disputed domain name previously resolved to a website which hosts gambling and pornographic content. At the time of this Decision, the disputed domain name does not resolve to an active website.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the Complainant’s registered BULGARI mark, the value of which has been recognized in previous UDRP panel decisions. The disputed domain name incorporates the Complainant’s BULGARI mark in its entirety, with the only differing element being the addition of the letter “x” to the disputed domain name. The generic Top-Level Domain (gTLD) “.com” should be disregarded under the first element as it is a standard registration requirement.

The Complainant further alleges that the Respondent does not hold registered or unregistered rights to “bulgari”, nor is the Respondent known by the term. The Respondent has not received a license from the Complainant to use a domain name which features the BULGARI mark. The Respondent has not used, nor have they prepared to use the disputed domain name in connection with a *bona fide* offering of goods or services as it resolved to a website which displays predominantly pornographic content and advertises links that redirect users to the websites of third-party services. The Respondent is likely generating commercial gain through misleadingly diverting Internet users with the disputed domain name, either directly or indirectly, through the content hosted on the disputed domain name.

The Complainant finally asserts that the Respondent registered and is using the disputed domain name in bad faith. The Complainant has developed a substantial reputation in the BULGARI mark, which the Respondent is undoubtedly aware of as the term “bulgari” has no generic or common meaning. The Respondent’s use of the disputed domain name to redirect unsuspecting Internet users intending to land on the Complainant’s website to pornographic content and other third-party websites illustrates the

Respondent's attempt to generate commercial profits through the disputed domain name. Further, the Complainant submits the Respondent has engaged in a pattern of registering trade mark abusive domain names.

B. Respondent

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

6. Discussion and Findings

6.1. Language of the Proceeding

Initially, the Panel must address the language of the proceeding. Paragraph 11(a) of the Rules provides that the language of the administrative proceeding shall be the language of the Registration Agreement unless otherwise agreed by the parties, subject to the authority of the panel to determine otherwise, having regard to the circumstances of the administrative proceeding. The panel may choose to write a decision in either language, or request translation of either party's submissions.

In this case, the Registrar has confirmed to the Center that the language of the registration agreement as used by the registrant for the disputed domain name is Chinese. However, the Complainant has requested that English be adopted as the language of the proceeding for the reasons summarized below:

- (a) there is evidence that the Respondent understands the English language. This is displayed through the Respondent's domain portfolio which includes domain names that comprised of English dictionary terms;
- (b) the Respondent has failed to respond to the Complainant's English language cease and desist correspondence to convey that it does not understand English or would like to receive correspondence in another language; and
- (c) the commission of a translator would add unnecessary costs to the Complainant, who already bears the cost of filing and will cause a delay in the commencement of proceedings.

It is established practice to take paragraphs 10(b) and (c) of the Rules into consideration for the purpose of determining the language of the proceeding, in order to ensure fairness to the parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes. Language requirements should not lead to undue burdens being placed on the parties and undue delay to the proceeding.

The Panel having considered the circumstances finds that English shall be the language of this proceeding. The reasons are set out below:

- (a) the Complainant is a company based in Italy with representatives in the United Kingdom. Requiring the Complainant to submit documents in Chinese would lead to delay and cause the Complainant to incur translation expenses;
- (b) even if the Respondent does not possess a sufficient command of English to understand the Complaint, there were ample opportunities for the Respondent to raise an objection. The Center notified the Parties in English and Chinese of the Complainant's request for English to be the language of the proceeding, but the Respondent did not protest against this request;
- (c) the Respondent has failed to participate in the proceeding even though the Center sent the notification in English and Chinese of the Complaint, and has been notified of its default; and
- (d) the Complaint has been submitted in English. No foreseeable procedural benefit may be served by requiring Chinese to be used. On the other hand, the proceeding may proceed expeditiously in English.

Accordingly, the Panel will proceed with issuing this Decision in English.

6.2. Substantive Issues

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has adduced evidence to demonstrate its established rights in the BULGARI mark.

The Panel notes the disputed domain name encompasses the BULGARI trade mark in its entirety. In cases where a domain name incorporates the entirety of a trade mark, 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 addition of “x” does not preclude a finding of confusing similarity between the BULGARI trade mark and the disputed domain name. See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)).

Lastly, it is permissible for the Panel to ignore the gTLD suffix, in this case “.com”. See section 1.11.1 of the [WIPO Overview 3.0](#).

Accordingly, the Complainant has satisfied the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

In circumstances where the Complainant possesses exclusive rights to the BULGARI mark, whereas the Respondent seems to have no trade mark rights, the Panel is satisfied that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, and the burden of production shifts to the Respondent. See section 2.1 of the [WIPO Overview 3.0](#).

There is no indication to show that the Respondent is commonly known by the disputed domain name, owns trade mark registrations, or otherwise has rights or legitimate interests in the BULGARI mark. Further, the Complainant has not granted the Respondent any license or authorization to use the BULGARI mark or register the disputed domain name. In addition, the Complainant submitted exhibits showing that the disputed domain name redirected to a website hosting gambling and pornographic content. On the other hand, the Respondent has not provided evidence of a legitimate noncommercial or fair use of the disputed domain name or reasons to justify the choice of the term “bulgari” in the disputed domain name, and none is apparent except due to its value in connection with the Complainant’s BULGARI mark. None of the circumstances in paragraph 4(c) of the Policy are present in this case.

For these reasons, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

Accordingly, the Complainant has satisfied the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Complainant’s BULGARI mark has been widely registered around the world. The disputed domain name was registered long after the registration of the Complainant’s BULGARI mark. Through extensive use and advertising, the Complainant’s BULGARI mark is well-known in many jurisdictions. Search results using the key word “bulgari” on popular Internet search engines direct Internet users to the Complainant and its business, which indicates that an exclusive connection between the BULGARI mark and the Complainant has been established. As such, the Respondent either knew or should have known of the Complainant’s BULGARI mark when registering the disputed domain name, and has exercised “the kind of willful blindness that numerous panels have held support a finding of bad faith”. See *eBay Inc. v. Renbu Bai*, WIPO Case No. [D2014-1693](#); *Barclays Bank PLC v. Andrew Barnes*, WIPO Case No. [D2011-0874](#).

Section 3.1.4 of the [WIPO Overview 3.0](#) states that “[...] 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 trade mark by an unaffiliated entity can by itself create a presumption of bad faith”. In this case, the disputed domain name is confusingly similar to the widely known BULGARI mark coupled with the meaningless letter “x” at the end, and was registered by the Respondent who has no relationship with the Complainant, which means that a presumption of bad faith can be created.

The Panel notes that the disputed domain name was previously used by the Respondent to redirect to a website featuring online gambling and phonography content, which demonstrates the Respondent’s intention to make commercial gain from the website by creating a likelihood of confusion with the Complainant’s mark and attracting Internet users. Such use constitutes evidence of bad faith registration and use as contemplated under paragraph 4(b)(iv) of the Policy.

In addition, the Panel finds that although the disputed domain name does not resolve to any website at the time of this Decision, the current inactive use of the disputed domain name in this case would not prevent a finding of bad faith under the doctrine of passive holding. In its determination, the Panel considers the degree of distinctiveness and reputation of the Complainant’s BULGARI mark, as well as the Respondent’s failure to respond in the face of the Complainant’s allegations of bad faith. See section 3.3 of the [WIPO Overview 3.0](#).

The Panel also notes that the Respondent appears to be engaged in a pattern of abusive registration having registered multiple domain names comprising third-party trade marks. The Panel finds this case is a continuation of that bad faith pattern. See *Asurion, LLC v. 杨智超 (Zhichao Yang)*, WIPO Case No. [D2021-4231](#). Such constitutes evidence of bad faith registration and use as contemplated under paragraph 4(b)(ii) of the Policy.

The Respondent has kept silent in the face of the Complainant’s allegations of bad faith. Taking into account these circumstances, the Panel finds that the Respondent must have known of the Complainant before registering the disputed domain name and, considering the Respondent’s lack of rights or legitimate interests, and by registering and using the disputed domain name as discussed above, the Panel is led to conclude that the disputed domain name was registered and is being used in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied the third element under 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 disputed domain name, <bulgarix.com>, be transferred to the Complainant.

/Rachel Tan/

Rachel Tan

Sole Panelist

Date: October 10, 2022