

ADMINISTRATIVE PANEL DECISION

Victoria Beckham v. bo luo

Case No. D2022-4589

1. The Parties

The Complainant is Victoria Beckham, United Kingdom, represented by Demys Limited, United Kingdom.

The Respondent is bo luo, China.

2. The Domain Name and Registrar

The disputed domain name <victoriabeckhamshop.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 December 1, 2022. On December 1, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 2, 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 December 7, 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 December 7, 2022.

On December 7, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On December 7, 2022, the Complainant confirmed 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 December 14, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 5, 2023.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on January 30, 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 singer, fashion designer, and television personality. The Complainant rose to international prominence in the 1990s as a member of the music group "The Spice Girls", which became very successful internationally with over 100 million records sold worldwide. The Complainant has since then also appeared in documentaries and reality shows. In 2008, the Complainant launched her own fashion brand which has been internationally recognized, obtaining various awards.

The Complainant provides evidence that she owns a large, international portfolio of trademark registrations for the word mark VICTORIA BECKHAM. Examples of such registrations include the following word mark registrations: European Union Trade Mark No. 002543320, registered on January 22, 2007; and International Trademark Registration No. 1163611, registered on June 14, 2012, designating jurisdictions including China and Japan. The Complainant also has a strong online presence through her social media channels and through her official website hosted at the domain name <victoriabeckham.com>, which resolves to her official website and online shop.

The relevant registered trademarks adduced by the Complainant were successfully registered prior to the date of registration of the disputed domain name, which is October 24, 2022. The Complainant submits evidence that the disputed domain name directed to an active website, which presented itself as a website operated by the Complainant by prominently using the VICTORIA BECKHAM marks, as well as product images from the Complainant's official website, and offers for sale purported VICTORIA BECKHAM products at heavily discounted prices. However, on the date of this Decision, the Panel notes that the disputed domain name directs to an inactive webpage.

5. Parties' Contentions

A. Complainant

The Complainant essentially contends that the disputed domain name is confusingly similar to her trademarks for VICTORIA BECKHAM, 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.

The Complainant claims that her trademarks are intensively used and globally famous and provides printouts of her official website and of her marketing and related materials. The Complainant also refers to several prior decisions under the Policy which have recognized the reputation of the Complainant and her trademark (see for instance *Victoria Beckham v. Weihua Chen*, WIPO Case No. [D2022-3515](#) and *Victoria Beckham v. David James*, WIPO Case No. [D2017-0035](#)). Moreover, the Complainant provides evidence that the disputed domain name is linked to an active website, which she claims that the Respondent is operating as an e-commerce website, selling what the Complainant presumes to be counterfeit products, due to their heavily discounted prices and the lack of disclaimer and false suggestions of affiliation. In this context, the Complainant also essentially argues that the Respondent is unlawfully misrepresenting its website as operated by the Complainant, by using the Complainant's trademarks and product images, which are likely

protected by copyright, and by including a misleading website description. 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

6.1 Preliminary Issue: Language of the Proceeding

Pursuant to paragraph 11(a) of the Rules, the language of the administrative 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.

According to the Registrar's verification response, the language of the Registration Agreement for the disputed domain name is Chinese. Nevertheless, the Complainant filed her Complaint in English, and requests that English be the language of the proceeding. The Panel notes that the Respondent did not comment on the language of the proceeding and did not submit any arguments on the merits of this proceeding.

In considering this request, the Panel has carefully reviewed all elements of this case, and deems the following elements particularly relevant: the Complainant's request that the language of the proceeding be English; the lack of comment on the language of the proceeding and the lack of response on the merits of this proceeding by the Respondent (the Panel notes that the Respondent was invited by the Center in Chinese and English and in a timely manner to present its comments and response in either Chinese or English, but chose not to do so); the fact that the disputed domain name is written in Latin letters and not in Chinese characters and that the website linked to the disputed domain name is exclusively in English, so that the Panel concludes that the Respondent is familiar with the English language; and, finally, the fact that Chinese as the language of proceeding could lead to unwarranted delays and additional costs for the Complainant. In view of all these elements, the Panel grants the Complainant's request, and decides that the language of this proceeding shall be English.

6.2 Discussion and Findings on the Merits

The Policy requires the Complainant to prove three elements:

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

Based on the evidence and arguments submitted, the Panel's findings are as follows:

A. Identical or Confusingly Similar

The Panel finds that the Complainant has provided sufficient evidence that she has valid rights in her trademarks for VICTORIA BECKHAM, based on her use and registration of the same as trademarks in several jurisdictions, as stated above.

Further, as to confusing similarity of the disputed domain name with the Complainant's VICTORIA BECKHAM marks, the Panel finds that the disputed domain name was created by the Respondent by merely adding the word "shop" after the Complainant's VICTORIA BECKHAM trademark. In this regard, the Panel refers to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7, which states: "[...] in cases where a domain name incorporates the entirety of a trademark, 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 Panel concludes that the disputed domain name contains the Complainant's trademark VICTORIA BECKHAM in its entirety, which remain easily recognizable in spite of the abovementioned addition of the word "shop", and which is therefore confusingly similar to the Complainant's VICTORIA BECKHAM marks. The Panel also notes that the applicable generic Top-Level Domain (".com" in this case) is viewed as a standard registration requirement, and may as such be disregarded by the Panel, see in this regard the [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, based on the above elements, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks. The Panel therefore decides that the Complainant has satisfied the requirements of the first element under the Policy.

B. Rights or Legitimate Interests

On the basis of the evidence and arguments submitted, the Panel accepts that the Complainant makes out a *prima facie* case that the Respondent is not, and has never been, an authorized reseller, service provider, licensee, or distributor of the Complainant, is not a good faith provider of goods or services under the disputed domain name, and is not making legitimate noncommercial or fair use of the disputed domain name. The Panel also notes that the Respondent is not commonly known by the disputed domain name. As such, the Panel finds that the burden of production regarding this element shifts to the Respondent (see [WIPO Overview 3.0](#), section 2.1). However, no evidence or arguments have been submitted by the Respondent in reply.

The Panel also notes that the Respondent has not provided any evidence of the use of, or demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services. Instead, upon review of the facts and the evidence submitted in this proceeding, the Panel notes that the disputed domain name directed to an active website which shows a clear intent on the part of the Respondent to misleadingly pass it off as the Complainant's website for commercial gain. In fact, said website prominently displays the Complainant's trademarks and uses some of the Complainant's own product images likely protected by copyright, and also displays a deceptive website description, thereby misleading consumers into believing that the Respondent is at least licensed by, or affiliated with the Complainant and/or her trademarks. Moreover, the Panel also accepts that, given the unclear origin, the lack of any clear disclaimer and false suggestions of affiliation on the website and given the heavily discounted product prices, it is very likely that the products offered by the Respondent on such website are counterfeit products. Moreover, even if the products were legitimate products, it is clear to the Panel from the foregoing elements that the Respondent is not a good faith provider of goods or services under the disputed domain name, see also *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#). Given the abovementioned elements, the Panel concludes that the Respondent's use does not constitute a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use of the disputed domain name.

However, the Panel notes that on the date of this decision, the disputed domain name directs to an inactive webpage. In this regard, the Panel finds that holding a domain name passively, without making any use of it, also does not confer any rights or legitimate interests in the disputed domain name on the Respondent (see in this regard earlier UDRP decisions such as *Bollore SE v. 赵竹飞 (Zhao Zhu Fei)*, WIPO Case No. [D2020-0691](#) and *Vente-Privee.Com and Vente-Privee.com IP S.à.r.l. v. 崔郡 (jun cui)*, WIPO Case No. [D2021-1685](#)).

Moreover, the nature of the disputed domain name is inherently misleading, and carries a risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

On the basis of the foregoing elements, the Panel considers that none of the circumstances of rights or legitimate interests envisaged by paragraph 4(c) of the Policy apply, and that the Complainant has satisfied the requirements of the second element under the Policy.

C. Registered and Used in Bad Faith

Given the intensive use, widespread reputation, and fame of the Complainant's prior registered trademarks, the Panel finds that the subsequent registration of the disputed domain name clearly and consciously targeted the Complainant's prior registered trademarks for VICTORIA BECKHAM. In this regard, the Panel also refers to several prior decisions under the Policy which have recognized the international fame and reputation of the Complainant and her trademark (see for instance *Victoria Beckham v. Weihua Chen*, WIPO Case No. [D2022-3515](#) and *Victoria Beckham v. David James*, WIPO Case No. [D2017-0035](#)), and the Panel therefore deducts from the Respondent's efforts to consciously target the Complainant's famous prior trademarks that the Respondent knew, or at least should have known, of the existence of the Complainant's trademarks at the time of registering the disputed domain name. This finding is confirmed by the fact that the website linked to the disputed domain name is used to offer for sale presumably counterfeit VICTORIA BECKHAM products, since this proves that the Respondent was fully aware of the Complainant's business and her prior trademarks. The Panel also notes that the website linked to the disputed domain name did not contain a disclaimer regarding the lack of relationship and even falsely suggests affiliation between the Parties. The Panel also considers that through the Complainant's prior registration and intensive use of her trademarks, which are also identical to her personal name, the disputed domain name is so closely linked and so obviously connected to the Complainant and her trademarks that the Respondent's registration of the disputed domain name points toward the Respondent's bad faith. In the Panel's view, the foregoing elements clearly 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 Complainant provides evidence that the disputed domain name directed to an active website which shows a clear intent on the part of the Respondent to misleadingly pass it off as the Complainant's website, displaying the Complainant's trademarks, some of her official product images (thereby likely violating the Complainant's copyrights), and offering products for sale that are likely counterfeit products due to their heavily discounted prices and unclear origin. The Panel concludes from these facts that the Respondent is intentionally attracting Internet users for commercial gain to such website, by creating consumer confusion between the website associated with the disputed domain name and the Complainant's trademarks. This constitutes direct evidence of the Respondent's bad faith under paragraph 4(b)(iv) of the Policy. However, on the date of this decision, the disputed domain name links to an inactive website. In this regard, the [WIPO Overview 3.0](#), section 3.3 provides: "From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or 'coming soon' page) would not prevent a finding of bad faith under the doctrine of passive holding." The Panel has reviewed all elements of this case, and attributes particular relevance to the following elements: the fact that the disputed domain name contains the entirety of the Complainant's trademark, the high degree of fame and intensive use of the Complainant's trademark and the unlikelihood of any good faith use to which the disputed domain name might be put by the Respondent. In these circumstances, the Panel considers that the passive holding of the disputed domain name by the Respondent also constitutes use of the disputed domain name in bad faith. The Panel therefore finds that it has been demonstrated that the Respondent has used, and is using the disputed domain name in bad faith.

Finally, the Respondent has failed to provide any response or evidence to establish its good faith or absence of bad faith. The Panel therefore finds that the Complainant has satisfied the requirements of the third requirement under 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, <victoriabeckhamshop.com>, be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: February 13, 2023