

ADMINISTRATIVE PANEL DECISION

Trapstar Collective Limited v. Ali Shan
Case No. D2022-4782

1. The Parties

The Complainant is Trapstar Collective Limited, United Kingdom, represented by Fieldfisher LLP, United Kingdom.

The Respondent is Ali Shan, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <trapstar-official.com> is registered with Hostinger, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 13, 2022. On December 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 16, 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 (Domain Admin, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 16, 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 amendment to the Complaint on December 20, 2022.

The Center verified that the Complaint together with the amendment to 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 December 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 10, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 11, 2023.

The Center appointed Luca Barbero as the sole panelist in this matter on January 19, 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 produces and sells clothing products under the trademark TRAPSTAR. Such products are sold predominantly through the Complainant's website "www.uk.trapstarlondon.com" as well as at "pop-up" events in fashion capitals across the world including London, Milan, Paris, and New York.

The Complainant was founded in 2008 by three school friends in West London. The Complainant's TRAPSTAR products were advertised on social media sites such as MySpace and delivered in pizza boxes under the brands "TRAPSTAR" and "IT'S A SECRET".

The Complainant sells its goods predominantly in the United Kingdom, but also exports its products to over 100 countries around the world including North America, the Middle East, Asia, and Australia.

The Complainant's trademark was featured in the TV drama "Top Boy", which ran for three seasons on the United Kingdom broadcaster Channel 4 between 2011 and 2013, and then on Netflix from September 2019. The show has been viewed by millions of people across the globe and received several awards and nominations from the British Academy Television Awards.

In 2019, TRAPSTAR was awarded Best Streetwear Brand at the World Fashion Awards, which celebrates "the achievements of established and emerging fashion brands, outlets, designers, models, manufacturers, buyers and media". TRAPSTAR was again nominated for Best Streetwear Brand in 2022.

The Complainant is the owner of several trademark registrations for TRAPSTAR, including the following, as per trademark certificates submitted as annex 6 to the Complaint:

- United Kingdom trademark registration No. UK00913149794, for TRAPSTAR (word mark), filed on August 6, 2014 and registered on December 30, 2014, in international classes 3, 9, 14, 16, 18, 25, and 35;
- United Kingdom trademark registration No. UK0003817822, for TRAPSTAR (figurative mark), filed on August 8, 2022 and registered on October 28, 2022, in international classes 18, 25, and 35;
- United Kingdom trademark registration No. UK00002630632, for TRAPSTAR (figurative mark), filed on August 4, 2012 and registered on September 20, 2013, in international classes 14, 18, and 25;
- United Kingdom trademark registration No. UK00003009252, for TRAPSTAR (figurative mark), filed on June 10, 2013 and registered on October 18, 2013, in international classes 14, 18, and 25;
- United Kingdom trademark registration No. UK00003009256, for TRAPSTAR (figurative mark), filed on June 10, 2013 and registered on October 18, 2013, in international classes 14, 18, and 25;
- United States of America trademark registration No. 4704161, for TRAPSTAR (word mark), registered on March 17, 2015, in international class 25;
- European Union trademark registration No. 013149794, for TRAPSTAR (word mark), filed on August 06, 2014 and registered on December 30, 2014, in classes 3, 9, 14, 16, 18, 25, and 35.

The Complainant is also the owner of the domain name <trapstarlondon.com>, which was registered on March 22, 2010, and is used by the Complainant to promote and offer for sale its products under the trademark TRAPSTAR.

The disputed domain name was registered on June 12, 2022, and is currently not pointed to an active website. According to the screenshots submitted by the Complainant – which have not been contested by the Respondent – the disputed domain name was pointed, prior to the filing of the Complaint, to a website where purported TRAPSTAR products were offered for sale and the TRAPSTAR trademarks were published, along with the following statement: “Trapstar Official symbol of unique and most fashionable products among the top Fashion houses of the world. Trapstar is a famous clothing brand and serving people since 2008.”

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the trademark TRAPSTAR in which the Complainant has rights as it reproduces the trademark in its entirety with the mere addition of the descriptive term “official” and the generic Top-Level Domain (TLD) “.com”.

The Complainant further highlights that the addition of the term “official” in the disputed domain name is insufficient to avoid confusing similarity, and, on the contrary, suggests to users that the disputed domain name is authorized by or associated with the Complainant.

With reference to rights or legitimate interests in respect of the disputed domain name, the Complainant states that, since the disputed domain name was registered on June 12, 2022, the Respondent can only have been trading through the use of the disputed domain name for approximately six months. The Complainant thus concludes that this is an insufficient length of time to generate any goodwill or reputation in the disputed domain name.

The Complainant states that the Respondent is not commonly known by the disputed domain name and that it never licensed or otherwise authorized the Respondent to use its trademarks or register any domain name including the trademark TRAPSTAR.

With reference to the circumstances evidencing bad faith, the Complainant indicates that the registration of the disputed domain name was primarily intended to disrupt the business of the Complainant, considering it is highly similar to the Complainant’s trademark TRAPSTAR and that the website to which the disputed domain name resolves explicitly asserts to be associated with the Complainant’s TRAPSTAR brand. The Complainant further contends that the Respondent’s use of the disputed domain name amounts to a scam.

The Complainant submits that, also considering its reputation, the distinctiveness of its trademarks and the use made by the Respondent of the disputed domain name, the Respondent was undoubtedly aware of the Complainant when registering the disputed domain name and thus acted in opportunistic bad faith in order to make an illegitimate use of the same, intentionally attempting to attract, for commercial gain, Internet users to its website by using a domain name likely to cause confusion with the Complainant and tarnishing the Complainant’s goodwill.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules: “A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.” Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

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

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights over the trademark TRAPSTAR based on the trademark registrations cited under section 4 above and the related trademark certificates submitted as annex 6 to the Complaint.

It is well accepted that the first element functions primarily as a standing requirement, and that the threshold test for confusing similarity involves a reasoned but relatively straightforward comparison between a complainant's trademark and the disputed domain names to assess whether the trademark is recognizable within the disputed domain name (section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#))).

In addition, as found in a number of prior cases decided under the Policy, where a trademark is recognizable within a domain name, the addition of terms does not prevent a finding of confusing similarity under the first element. See section 1.8 of the [WIPO Overview 3.0](#).

Moreover, as indicated in section 1.11.1 of the [WIPO Overview 3.0](#), the applicable TLD in a domain name is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

In the case at hand, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark TRAPSTAR since the Respondent has merely added a hyphen followed by the word "official" and the generic TLD ".com", which the Panel finds does not prevent a finding of confusing similarity.

Therefore, the Panel finds that the Complainant has proven that the disputed domain name is confusingly similar to a trademark in which the Complainant has established rights according to paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant must show that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent may establish a right or legitimate interest in the disputed domain name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

- "(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

In the case at hand, by not submitting a Response, the Respondent has failed to invoke any circumstance that could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in the disputed domain name.

The Panel notes that there is no relation, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant. The Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant's trademarks. Moreover, there is no element from which the Panel could infer the Respondent's right over the disputed domain name, or that the Respondent might be commonly known by the disputed domain name.

As mentioned above, the disputed domain name, currently not pointed to an active website, was previously pointed by the Respondent to a website displaying the Complainant's trademarks and promoting the online sale of purported TRAPSTAR clothing and accessories.

The Panel finds that the Respondent's use of the disputed domain name did not meet the cumulative requirements set forth in the Oki Data test for resellers using a domain name containing the complainant's trademark to be making a *bona fide* offering of goods and services. Specifically, the website did not accurately and prominently disclose the Respondent's (lack of) relationship with the trademark holder. See *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#) and section 2.8.1 of the [WIPO Overview 3.0](#).

Moreover, by using the term "official" both in the disputed domain name and on the correspondent website, where the website operator was described as "Trapstar Official", the Respondent clearly intended to impersonate the Complainant. As stated in section 2.13.1 of the [WIPO Overview 3.0](#), Panels have categorically held that the use of a domain name for illegal activity, including impersonation/passing off, can never confer rights or legitimate interests on a respondent.

In view of the above-described use of the disputed domain name, the Panel also finds that the Respondent has not used the disputed domain name in connection with a legitimate noncommercial or fair use without intent for commercial gain to misleadingly divert consumers looking for the Complainant's products.

Therefore, the Panel finds that the Complainant has proven that the Respondent has no rights or legitimate interests in the disputed domain name according to paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the Complainant proves that the disputed domain name was registered and is used by the Respondent in bad faith.

As to the bad faith at the time of the registration, the Panel notes that, in light of the prior registration and use of the Complainant's trademark TRAPSTAR in connection with the promotion and sale of the Complainant's TRAPSTAR clothing, especially online via the Complainant's website "www.uk.trapstarlondon.com", and the popularity reached by the TRAPSTAR brand, which was also featured in a TV show broadcasted by the international streaming service Netflix, the Respondent was or could have been aware of the Complainant's trademark.

Indeed, the circumstance that the disputed domain name has been pointed to a website featuring the Complainant's trademark, offering purported TRAPSTAR clothing for sale, and displaying information on the Complainant and the trademark TRAPSTAR demonstrates that the Respondent was indeed well aware of the Complainant and its trademark.

The Panel further notes that, in view of the use of the disputed domain name to divert users to the website described above, featuring the Complainant's trademark and offering purported TRAPSTAR products claiming to be the official TRAPSTAR website, the Respondent intentionally attempted to attract Internet users to its website, for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of its website according to paragraph 4(b)(iv) of the Policy.

As mentioned above, the disputed domain name is currently not pointed to an active website. According to section 3.3 of the [WIPO Overview 3.0](#), “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. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put”.

In the case at hand, in view of i) the composition of the disputed domain name, combining the Complainant’s trademark TRAPSTAR with the term “official”, unduly suggesting that the domain name might be owned by the trademark owner; ii) the prior use of the disputed domain name to impersonate the Complainant described above and the absence of any documented rights or legitimate interests of the Respondent in the disputed domain name; iii) the Respondent’s failure to respond to the Complaint; and iv) the Respondent’s use of a privacy service to shield its contact details in the public Whois records, the Panel finds that the current passive holding of the disputed domain name by the Respondent does not prevent a finding of bad faith registration and use. See section 3.3. of [WIPO Overview 3.0](#).

Therefore, the Panel finds that the Complainant has also proven that the Respondent registered and has been using the disputed domain name in bad faith according to paragraph 4(a)(iii) 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 <trapstar-official.com> be transferred to the Complainant.

/Luca Barbero/

Luca Barbero

Sole Panelist

Date: February 2, 2023