

ADMINISTRATIVE PANEL DECISION

Reckitt Benckiser Group Plc, Reckitt & Colman (Overseas) Health Limited,
and Reckitt Benckiser SARL v. Tom Barnet
Case No. D2023-1035

1. The Parties

The Complainants are Reckitt Benckiser Group Plc, United Kingdom, (the “First Complainant”), Reckitt & Colman (Overseas) Health Limited, United Kingdom, (the “Second Complainant”), and Reckitt Benckiser SARL, Luxembourg, (the “Third Complainant”), represented by Studio Barbero, Italy.

The Respondent is Tom Barnet, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <reckittinc.com> is registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 8, 2023. On March 9, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 9, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 March 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 2, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 3, 2023.

The Center appointed Assen Alexiev as the sole panelist in this matter on April 7, 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 three Complainants are members of the Reckitt group of companies, which is a global leader in consumer health, hygiene, home and nutrition products. Reckitt manufactures and markets health, personal care and household products, including over-the-counter pharmaceuticals such as analgesics, antiseptics, flu remedies and gastrointestinal medications and products for hair removal, denture cleaning, intimate wellness and pest control. The group has more than 40,000 employees, operations in more than 60 countries and sales in most countries across the globe.

The First Complainant is the parent company to the other Complainants.

The Second Complainant is the owner of the following trademark registrations for the sign "RECKITT" (the "RECKITT trademark"):

- the United Kingdom trademark RECKITT with registration No. UK00003615754, registered on November 5, 2021 for goods and services in International Classes 1, 3, 5, 8, 9, 10, 11, 21, 25, 29, 30, 31, 32, 35, 36, 41, 42 and 44;
- the International trademark RECKITT with registration No. 1621375, registered on March 24, 2021 for goods and services in International Classes 1, 3, 5, 8, 9, 10, 11, 21, 25, 29, 30, 31, 32, 35, 36, 41, 42 and 44; and
- the European Union trademark RECKITT with registration No. 018435303, registered on September 25, 2021 for goods and services in International Classes 3, 5, 10, 29, 35 and 41.

The Third Complainant is the owner of the domain name <reckitt.com>, registered on February 11, 1996.

The disputed domain name was registered on January 16, 2023. It redirects to the Complainant's official web portal at "www.reckitt.com" and has mail exchange ("MX") records configured.

5. Parties' Contentions

A. Complainants

The Complainants submit that the Respondent registered the disputed domain name without authorization by them, that it redirects to their official website and that it has active MX records in its DNS configuration. According to them, despite the fact that no fraudulent email communication based on the disputed domain name has been reported to date, this may happen and Internet users receiving messages sent via email addresses based on the disputed domain name would be misled into believing that such messages are sent by the Complainants or one of their affiliated entities.

The Complainants assert that the disputed domain name is confusingly similar to the RECKITT trademark in which they have rights, as it entirely reproduces the trademark with the addition of the abbreviation "inc", which stands for "Incorporated". According to them, the combination is likely to increase the likelihood of confusion since Internet users might believe that the disputed domain name is a corporate domain name of the Complainants.

The Complainants submit that the Respondent has no rights or legitimate interests in respect of the disputed domain name, because he is not an employee of the Complainants and has not been authorized to register the disputed domain name and to redirect it to the Complainants' official website. The Complainants add that the Respondent, allegedly named "Tom Barnet", is not commonly known by the disputed domain name and has not used it in connection with a *bona fide* offering of goods or services, as it carries a high risk of implied affiliation and redirects to their official website, thus generating the false impression that it is under the control of the Complainants.

The Complainants contend that the disputed domain name was registered and is used in bad faith.

According to them, in light of the prior registration and use of the Complainants' RECKITT trademark worldwide, it is inconceivable that the Respondent was unaware of the existence of this trademark at the time of registration of the disputed domain name in January 2023. The composition of the disputed domain name shows that the Respondent registered it with the intention to target the Complainants and their trademarks, inducing users to believe that the disputed domain name is owned and operated by Complainants or one of their affiliated entities. The Complainants state that the Respondent's actual knowledge of the Complainants and their trademarks is demonstrated by the fact that the disputed domain name redirects to their official website, inducing users to believe that it is operated by them. According to the Complainants, this demonstrates that the sole purpose of the Respondent is to take advantage of their reputation and of the well-known character of their trademarks, by causing an erroneous association with them, their activities and products. Considering that MX records have been set up in the DNS configuration of the disputed domain name, the Complainants submit that it is likely that it may be used for the receipt and the sending of email communications, which may mislead recipients into believing that the messages are sent by the Complainants or one of their affiliated entities.

The Complainants request the transfer of the disputed domain name to the Third Complainant Reckitt Benckiser SARL.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

6.1. Procedural issue - Consolidation of the Complainants

The Complainants request the Panel to accept the Complaint brought by them against the Respondent with regard to the disputed domain name. The Complainants point out that all of them are part of the Reckitt group of companies, that the Second Complainant is the owner of the RECKITT trademark, that the Third Complainant is the owner of the domain name <reckitt.com>, currently used for the Complainants' main web portal at "www.reckitt.com" to which the disputed domain name redirects, and that the First Complainant is the parent company to the other Complainants. The Complainants assert that they are the target of a common conduct by the Respondent and that they have common grievances against the Respondent regarding the registration and use of the disputed domain name. They add that permitting the consolidation would be fair and equitable to the Parties involved and would safeguard procedural efficiency.

Paragraph 10(e) of the Rules grants a panel the power to consolidate multiple domain name disputes. The Policy and the Rules do not directly regulate the consolidation of multiple Complainants in a single Complaint. As discussed in section 4.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), in assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether the complainants have a specific common grievance against the respondent or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and whether it would be equitable and procedurally efficient to permit the consolidation.

As discussed in section 6.2.A below, the Complainants are to be considered as all having rights in the RECKITT trademark for the purposes of the Policy, and they have brought forward certain common grievances against the Respondent in the Complaint. The Respondent has not objected to the consolidation of the Complainants and has not advanced any reasons why it may not be equitable and procedurally efficient to consolidate them. Therefore, the Panel decides to allow the consolidation of the Complainants in this proceeding.

6.2. Substantive issues

Pursuant to the Policy, paragraph 4(a), the Complainants must prove each of the following to justify the transfer of the disputed domain name:

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

A. Identical or Confusingly Similar

The Complainants have provided evidence that the Second Complainant is the owner of the RECKITT trademark, and submit that all Complainants are members of the same group of companies where the First Complainant is the parent company of the other two Complainants. As discussed in section 1.4.1 of the [WIPO Overview 3.0](#), a trademark owner's affiliate such as a subsidiary of a parent or of a holding company, or an exclusive trademark licensee, is considered to have rights in a trademark under the UDRP for purposes of standing to file a complaint. The Panel considers that it is appropriate to apply this principle to the First and to the Third Complainants in the present proceeding, as they are affiliated to the Second Complainant and since the Complaint is brought by them jointly. In view of this, the Panel accepts that the three Complainants have rights in the RECKITT trademark for the purposes of the Policy.

The Panel notes that a common practice has emerged under the Policy to disregard in appropriate circumstances the generic Top-Level Domain ("gTLD") section of domain names for the purposes of the comparison under the Policy, paragraph 4(a)(i). See section 1.11.1 of the [WIPO Overview 3.0](#). The Panel sees no reason not to follow the same approach here, so it will disregard the ".com" gTLD of the disputed domain name.

The disputed domain name incorporates the RECKITT trademark with the addition of the element "inc", which is a commonly used abbreviation for "incorporated" – a type of legal entity. The RECKITT trademark is easily recognizable in the disputed domain name. As discussed in section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. In the present case, the addition of the element "inc" to the RECKITT trademark does not prevent a finding of confusing similarity. In view of this, the Panel finds that the disputed domain name is confusingly similar to the RECKITT trademark in which the Complainants have rights.

B. Rights or Legitimate Interests

While the overall burden of proof in UDRP proceedings is on the complainant, UDRP 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. See section 2.1 of the [WIPO Overview 3.0](#).

The Complainants contend that the Respondent has no rights or legitimate interests in the disputed domain name, because he is not commonly known by the disputed domain name, is not their employee and has not been authorized to register the disputed domain name and to redirect it to their official website, which gives rise to a false impression that it is under the control of the Complainants.

The Respondent has not denied the Complainants' contentions and has not alleged having rights or legitimate interests in the disputed domain name. He has not provided any explanation why he has registered and how he intends to use the disputed domain name.

The disputed domain name incorporates the RECKITT trademark and the element "inc", and the combination appears as the name of a company of the Reckitt group to which all Complainants belong. The disputed domain name redirects to the Complainants' official website and has MX records activated. As discussed in section 2.5 of the [WIPO Overview 3.0](#), fundamentally, a respondent's use of a domain name will not be considered "fair" if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and the complainant's mark is often central to this inquiry. Even where a domain name consists of a trademark plus an additional term (at the second- or top-level), UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. Here, the composition of the disputed domain name and the fact that it redirects to the Complainants' official website does exactly this, and effectively impersonates the Complainants.

The above considerations lead the Panel to the conclusion that the Respondent knew of the Complainants, registered the disputed domain name because it is confusingly similar to their RECKITT trademark, and made it redirect to the Complainants' official website to reinforce the likelihood of confusion of Internet users that the disputed domain name belongs to the Complainants. As pointed out by the Complainants, the fact that MX records have been activated for the disputed domain name is a further cause of concern, as recipients of emails from email accounts at the disputed domain name are likely to believe that they originate from the Complainants. The Panel does not regard the circumstances of the present case as disproving the Complainants' *prima facie* case and giving rise to rights or legitimate interests of the Respondent in the disputed domain name.

Therefore, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists four illustrative alternative circumstances that shall be evidence of the registration and use of a domain name in bad faith by a respondent, namely:

"(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location."

As discussed in section 3.1 of the [WIPO Overview 3.0](#), given that the scenarios described in UDRP paragraph 4(b) are non-exclusive and merely illustrative, even where a complainant may not be able to demonstrate the literal or verbatim application of one of the above scenarios, evidence demonstrating that a respondent seeks to take unfair advantage of, abuse, or otherwise engage in behavior detrimental to the complainant's trademark would also satisfy the complainant's burden.

The disputed domain name is confusingly similar to the RECKITT trademark and redirects to their official website – a combination that carries a high risk of implied affiliation with the Complainants. Redirecting the domain name to the Complainants' website is evidence of bad faith (see section 3.14 of the [WIPO Overview 3.0](#)). Furthermore, the disputed domain name has MX records activated. The Respondent does not provide any plausible explanation for the registration and use of the disputed domain name. As submitted by the Complainants, this combination of factors shows that the Respondent is well aware of them and their RECKITT trademark, and is more likely than not an attempt to impersonate them and induce Internet users to believe that the disputed domain name and associated email accounts are operated by the Complainants, and thus take advantage of their reputation and of the well-known character of their trademarks for financial gain.

For these reasons, the Panel finds that the disputed domain name was registered and is being 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 name <reckittinc.com> be transferred to the Third Complainant Reckitt Benckiser SARL.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: April 11, 2023