

ADMINISTRATIVE PANEL DECISION

Urban Outfitters Inc. v. Hao Xu; 薛荧坤 (Xue Ying Kun); Pending Renewal Deletion; Blue Face; DAVID GIRE
Case No. D2023-1291

1. The Parties

The Complainant is Urban Outfitters Inc., United States of America (“United States”), represented by SafeNames Ltd., United Kingdom.

The Respondents are Hao Xu, China; 薛荧坤 (Xue Ying Kun), China; Pending Renewal Deletion, British Virgin Islands, United Kingdom; Blue Face, United States; and DAVID GIRE, France.

2. The Domain Names and Registrars

The disputed domain names <theanthropologiestore.com>, <theanthropologieonline.com>, <theanthropologieshop.com>, <thefreepeoplesesale.com>, <thefreepeopleseshop.com>, <thefreepeoplesestore.com>, <theurbanoutfittersshop.com>, <theurbanoutfittersonline.com>, <theurbanoutfittersstore.com>, <urbanoutfittersclothes.com>, <urbanoutfitterssale.com>, <urbanoutfitterstyle.com>, and <urbanoutfittersus.com> are registered with 1API GmbH; the disputed domain name <urbanoutfittersfashion.com> is registered with Hefei Juming Network Technology Co., Ltd.; and the disputed domain names <urbanoutfitterstore.com>, <theurbanoutfitterfashion.com>, <anthropologiesonline.com>, <anthropologiesshop.online>, <theanthropologietop.com>, <urbanoutfitterfashiononline.com>, and <anthropologiesstore.com> are registered with DNSPod, Inc. (collectively, the “Registrar(s)”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on March 24, 2023. On March 27, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On March 28 and 29, 2023, the Registrars transmitted by email to the Center their verification responses disclosing registrants and contact information for the disputed domain names which differed from the named Respondent (Redacted) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 29, 2023, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaint(s) for the disputed domain names

associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amended Complaint in English on March 31, 2023.

On March 29, 2023, the Center informed the Parties in Chinese and English that the language of the Registration Agreements for the disputed domain names registered with the Registrars Hefei Juming Network Technology Co., Ltd. and DNSPod, Inc. is Chinese. On March 31, 2023, the Complainant requested English to be the language of the proceeding. The Respondents 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 Respondents in English and Chinese of the Complaint, and the proceeding commenced on April 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 25, 2023. A third party sent an email communication to the Center on April 17, 2023 indicating that they received the Written Notice because the Respondent DAVID GIRE used their company address, however, there is no such person at their company. The Center notified the Commencement of Panel Appointment Process to the Parties on April 27, 2023.

The Center appointed Sebastian M.W. Hughes as the sole panelist in this matter on May 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

A. Complainant

The Complainant is a company established in 1970 and headquartered in the State of Philadelphia in the United States. The Complainant advertises and sells a wide range of fashion clothing, footwear, and related products worldwide under the trade marks URBAN OUTFITTERS, FREE PEOPLE, and ANTHROPOLOGIE (the "Trade Mark(s)").

The Complainant has registered trade mark rights for the Trade Marks in jurisdictions worldwide, including United States registration No. 1323901 and International registration No. 1348803 for the URBAN OUTFITTERS Trade Mark, registered on March 5, 1985 and March 16, 2017, respectively; United States registration No. 1827547 and International registration No. 957751 for the FREE PEOPLE Trade Mark, registered on March 22, 1994 and March 14, 2008, respectively; and United States registration No. 1814261 and International registration No. 1356914 for the ANTHROPOLOGIE Trade Mark, registered on December 28, 1993 and March 16, 2017, respectively.

B. Respondents

The Respondent Hao Xu is apparently an individual with an address in China.

The Respondent 薛莹坤 (Xue Ying Kun) is apparently an individual with an address in China.

The Respondent Pending Renewal Deletion has an address in the British Virgin Islands, United Kingdom.

The Respondent Blue Face has an address in the United States.

The Respondent DAVID GIRE apparently has used a third party's address in France.

C. The Disputed Domain Names

Each of the disputed domain names <theanthropologiestore.com>, <theanthropologieonline.com>, <theanthropologieshop.com>, <thefreepeoplesesale.com>, <thefreepeopleseshop.com>, <thefreepeoplesestore.com>, <theurbanoutfittershop.com>, <theurbanoutfittersonline.com>, and <theurbanoutfittersstore.com> was registered on March 21, 2022.

Both of the disputed domain names <urbanoutfittersclothes.com> and <urbanoutfitterssale.com> were registered on April 9, 2022.

The disputed domain name <urbanoutfitterstyle.com> was registered on April 29, 2022.

The disputed domain name <urbanoutfittersus.com> was registered on May 14, 2022.

The disputed domain name <urbanoutfitterstore.com> was registered on June 12, 2022.

The disputed domain name <urbanoutfittersfashion.com> was registered on July 29, 2022.

Each of the disputed domain names <theurbanoutfitterfashion.com>, <anthropologiesonline.com>, <anthropologiesshop.online>, <theanthropologietop.com>, and <urbanoutfitterfashiononline.com> was registered on August 11, 2022.

The disputed domain name <anthropologiesstore.com> was registered on October 20, 2022.

D. The Websites at the Disputed Domain Names

Each of the disputed domain names has been resolved to an English language website which impersonates an official or authorised website of the Complainant, and features prominently the relevant Trade Mark and products of the Complainant (the "Website(s)"). In particular, the disputed domain name <urbanoutfittersfashion.com> has been redirected to the Website at the disputed domain name <urbanoutfitterstore.com>.

As at the date of this Decision, the disputed domain names <theanthropologiestore.com>, <theanthropologieonline.com>, <theanthropologieshop.com>, <thefreepeoplesesale.com>, <thefreepeopleseshop.com>, <thefreepeoplesestore.com>, <theurbanoutfittershop.com>, <theurbanoutfittersonline.com>, <theurbanoutfittersstore.com>, <urbanoutfittersus.com> <urbanoutfitterstore.com>, and <theurbanoutfitterfashion.com> are no longer resolved to any active websites; and the disputed domain name <theurbanoutfitterfashion.com> is resolved to a "deceptive site ahead" website.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain names are confusingly similar to the Trade Marks, the Respondents have no rights or legitimate interests in respect of the disputed domain names, and the disputed domain names were registered and are being used in bad faith.

B. Respondents

Apart from a third party email communication dated April 17, 2023, the Respondents did not reply to the Complainant's contentions.

6. Discussion and Findings

6.1. Preliminary Issue: Consolidation of Respondents

Section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)) provides as follows:

"Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario."

The Complainant contends that there should be consolidation of the Respondents in the present proceeding, for the following reasons:

- (i) all of the disputed domain names have been resolved (or redirected, in the case of <urbanoutfittersfashion.com>) to Websites that are, in appearance and structure, substantially similar to one another;
- (ii) all of the disputed domain names share a similar lexical pattern;
- (iii) the disputed domain names have been registered on the same or similar dates, and all were registered within several months of one another;
- (iv) the disputed domain names are connected to a series of similar and shared servers based on the corresponding IP addresses; and
- (v) there are a number of previous domain dispute decisions involving some of the named Respondents, who were found to have targeted both the Complainant and other online clothing retailers.

For the above reasons put forward by the Complainant, the Panel concludes that there are sufficient grounds to support the conclusion that the disputed domain names are subject to common control and that consolidation would be fair and equitable to all Parties. The Panel notes, in addition to the factors relied upon by the Complainant, the disputed domain names registered by the Respondents Pending Renewal Deletion, Blue Face, and DAVID GIRE share the same Registrar; the Respondent DAVID GIRE used third party postal address in registering the disputed domain names <urbanoutfitterstyle.com> and <urbanoutfittersus.com>; and none of the Respondents has objected to the Complainant's consolidation request.

Save where the context suggests otherwise, the Respondents will accordingly be referred to as the "Respondent" hereinafter.

6.2. Preliminary Issue: Language of the Proceeding

The language of the Registration Agreements for the disputed domain names registered with the Registrars Hefei Juming Network Technology Co., Ltd. and DNSPod, Inc. is Chinese; whereas the language of the Registration Agreements for the remaining disputed domain names is English.

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.

Paragraph 11(a) of the Rules allows the Panel to determine the language of the proceeding having regard to all the circumstances. In particular, 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 burden being placed on the parties and undue delay to the proceeding (see [WIPO Overview 3.0](#), section 4.5.1).

The Complainant has requested that the language of the proceeding be English.

The Respondent did not make any submissions regarding the language of the proceeding, and did not file any response in either Chinese or English, after the Respondent had been duly notified in both Chinese and English of the language of the proceeding, and the Complaint.

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.

In light of the English language content of the Websites, and the Panel's Consolidation finding under section 6.1. above, the Panel finds there is sufficient evidence in support of the conclusion that the Respondent is conversant in English.

The Panel is also mindful of the need to ensure the proceeding is conducted in a timely and cost effective manner.

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.

6.3. Substantive Elements of the Policy

The Complainant must prove each of the three elements in paragraph 4(a) of the Policy in order to prevail.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has rights in the Trade Marks acquired through use and registration.

Disregarding the generic Top-Level Domain ("gTLD") ".com" or ".online", each of the disputed domain names incorporates the entirety of the Complainant's relevant Trade Mark or a misspelt version of the Complainant's relevant Trade Mark (in case of the disputed domain names <theurbanoutfitterfashion.com> and <urbanoutfitterfashiononline.com> omitting the final letter "s" of the Trade Mark), together with words such as "the", "store", "online", "shop", "sale", and etc. (see [WIPO Overview 3.0](#), section 1.7).

Where a relevant trade mark is recognisable within a disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element (see [WIPO Overview 3.0](#), section 1.8).

A domain name which consists of a common, obvious, or intentional misspelling of a trade mark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element (see [WIPO Overview 3.0](#), section 1.9).

The Panel therefore finds that the disputed domain names are confusingly similar to the relevant Trade Marks of the Complainant.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of non-exhaustive circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in the disputed domain name:

- (i) before any notice to the respondent of the dispute, the respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent (as an individual, business, or other organisation) has been commonly known by the disputed domain name even if the respondent has acquired no trade mark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

The Complainant has not authorised, licensed, or permitted the Respondent to register or use the disputed domain names or to use the Trade Marks. The Panel finds on the record that there is therefore a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names, and the burden is thus on the Respondent to produce evidence to rebut this presumption.

The Respondent has failed to show that it has acquired any trade mark rights in respect of the disputed domain names or that the disputed domain names have been used in connection with a *bona fide* offering of goods or services. To the contrary, the disputed domain names have been resolved to the Websites, in order to impersonate the Complainant and pass off the Websites as websites of, or authorised by, the Complainant.

There has been no evidence adduced to show that the Respondent has been commonly known by the disputed domain names.

There has been no evidence adduced to show that the Respondent is making a legitimate noncommercial or fair use of the disputed domain names.

In all the circumstances, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain names.

C. Registered and Used in Bad Faith

In light of the manner of use of the disputed domain names highlighted in section 6.3.B above, the Panel concludes that the disputed domain names have been registered and are being used in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

The fact that several of the Websites have been taken down at some stage following the filing of the Complainant in this proceeding provides further grounds in support of a finding of bad faith.

For all the foregoing reasons, the Panel concludes that the disputed domain names have been registered and are 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 names <theanthropologiesstore.com>, <theanthropologieonline.com>, <theanthropologieshop.com>, <thefreepeoplesesale.com>, <thefreepeopleseshop.com>, <thefreepeoplesestore.com>, <theurbanoutfittersshop.com>, <theurbanoutfittersonline.com>, <theurbanoutfittersstore.com>, <urbanoutfittersclothes.com>, <urbanoutfitterssale.com>, <urbanoutfitterstyle.com>, <urbanoutfittersus.com>, <urbanoutfittersfashion.com>, <urbanoutfitterstore.com>, <theurbanoutfitterfashion.com>, <anthropologiesonline.com>, <anthropologiesshop.online>, <theanthropologietop.com>, <urbanoutfitterfashiononline.com>, and <anthropologiesstore.com> be transferred to the Complainant.

/Sebastian M.W. Hughes/

Sebastian M.W. Hughes

Sole Panelist

Dated: May 31, 2023