

ADMINISTRATIVE PANEL DECISION

Moooi B.V. v. Vcdh Ubsa, and Guowei Yin
Case No. D2023-2054

1. The Parties

The Complainant is Moooi B.V., Netherlands, represented by AKD N.V., Netherlands.

The Respondents are Vcdh Ubsa, Hong Kong, China, and Guowei Yin, China.

2. The Domain Names and Registrars

The disputed domain name <mooofurniture.shop> is registered with Gandi SAS (the “First Registrar”), and the disputed domain name <moooisale.com> is registered with Name.com, Inc. (the “Second Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on May 9, 2023. On May 9, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On May 10, 2023, the First Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Gandi SAS) and contact information in the Complaint. On May 11, 2023, the Second Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 15, 2023, providing the registrant and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint in English on May 17, 2023.

On May 15, 2023, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On May 17, 2023, the Complainant requested that English 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 Chinese and English of the Complaint, and the proceedings commenced on May 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 13, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on June 15, 2023.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on June 26, 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 company headquartered in the Netherlands and designs, manufactures and sells furniture and lighting design products under the mark MOOOI. The Complainant claims to be recognized as developing iconic design products.

The Complainant provides evidence that it owns a portfolio of trademark registrations for MOOOI. Examples of such registrations include European Union Trademark Registration number 018054483, for the word mark MOOOI, registered on October 3, 2019 and European Union Trademark Registration number 013967393 for the figurative mark MOOOI, registered on August 26, 2015.

The relevant registered trademarks adduced by the Complainant were successfully registered prior to the date of registration of the disputed domain names by the Respondents, which was July 30, 2022. The Complainant submits evidence that the disputed domain names has directed to active websites, prominently using the MOOOI marks as well as official product images of the Complainant, and purportedly offering for sale products branded with the Complainant's trademarks at heavily discounted prices. The Panel notes, however, that on the date of this Decision, the disputed domain name <mooofurniture.shop> directs to an inactive website.

5. Parties' Contentions

A. Complainant

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

The Complainant claims that its trademarks are intensively used and famous in the furniture industry and refers to a judgment of the Benelux Court of Justice of April 18, 2023, which, it claims, has recognized its marks as reputable. Moreover, the Complainant provides evidence that the disputed domain names have been linked to active websites, which the Respondents are operating as e-commerce websites misleadingly passed off as the Complainant's websites and deceitfully attempting to obtain Internet user's credit card information in a phishing attempt. In this context, the Complainant essentially claims that the Respondents are unlawfully misrepresenting their websites as operated by the Complainant, using the Complainant's trademarks and product images, which are protected by copyright, and offering for sale products, which are presumably counterfeit products. The Complainant essentially contends that the registration and use of the disputed domain names in such circumstances constitutes registration and use in bad faith.

The Complainant requests the transfer of the disputed domain names.

B. Respondents

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

6. Discussion and Findings

6.1 First Preliminary Issue: Consolidation of Respondents

The Complainant requests consolidation in regard to the Respondents, as the disputed domain names are currently owned by seemingly multiple registrants. In this regard, the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") states in paragraph 4.11.2: "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." (See in this regard also prior UDRP decisions such as *Speedo Holdings B.V. v. Programmer, Miss Kathy Beckerson, John Smitt, Matthew Simmons*, WIPO Case No. [D2010-0281](#)).

The Panel has carefully reviewed all elements of this case, giving particular weight to the following elements and facts: (A) the disputed domain names were registered on the same date, namely July 30, 2022; (B) the disputed domain names both target the Complainant's MOOOI marks; (C) the disputed domain names have been both linked to very similar active websites purportedly offering for sale MOOOI-branded furniture at heavily discounted prices and both containing the Complainant's product images and some content which are identical between those websites (e.g., at the "About Us" sections); (D) the use of identical postal addresses on those websites. The Panel also notes that the Respondents did not submit any arguments and did not contest the request for consolidation.

In view of the above elements, the Panel finds that the Respondents are the same or connected and that the websites linked to the disputed domain names are under common control, that in this case consolidation would be fair and equitable to all Parties involved and would safeguard procedural efficiency. The Panel therefore decides to grant the request for consolidation of the Respondents and shall hereafter refer to the Respondents jointly as "the Respondent".

6.2 Second 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 First Registrar's verification response, the language of the Registration Agreement for the disputed domain name <mooofurniture.shop> is Chinese, while the Second Registrar has confirmed that the language of the Registration Agreement for the disputed domain name <moooisale.com> is English. The Complainant filed its Complaint and its amended 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 names are written in Latin letters and not in Chinese characters and each contain English words (*i.e.*, "furniture" and "sale"); the fact that the websites previously linked to both disputed domain names are exclusively in English, so that the Panel concludes that the Respondent is capable of writing and understanding English; and, finally, the fact that Chinese as the language of the 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.

6.3 Discussion and Findings on the Merits

The Policy requires the Complainant to prove three elements:

- (a) the disputed domain names are 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 names; and
- (c) the disputed domain names have been registered and are 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 it has valid rights in its marks for MOOOI, based on its use and registration of the same as trademarks in the European Union, as stated above.

Further, as to confusing similarity of the disputed domain names with the Complainant's MOOOI marks, the Panel finds that both disputed domain names consist of the Complainant's MOOOI marks combined with the terms "sale" and "furniture". The Panel concludes that the Complainant's trademarks for MOOOI remain easily recognizable in both disputed domain names in spite of the abovementioned additions, and are therefore confusingly similar to the Complainant's MOOOI marks, see [WIPO Overview 3.0](#), section 1.7. The Panel also notes that the applicable generic Top-Level Domains (here ".com" and ".shop") are 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 names are confusingly similar to the Complainant's trademarks. The Panel 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 names and is not making a legitimate noncommercial or fair use of the disputed domain names. The Panel also notes that the Respondent is not commonly known by the disputed domain names. 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.

Further, upon review of the facts and the evidence submitted in this proceeding, the Panel notes that both disputed domain name have directed to active websites, prominently displaying the Complainant's trademarks and u the Complainant's own product images likely protected by copyright, thereby misleading consumers into believing that the Respondent is at least licensed by, or affiliated with the Complainant and/or its trademarks. Moreover, the websites also requests unsuspecting Internet users to provide their payment details and therefore poses a grave risk of phishing, as it may lead unsuspecting Internet users to share sensitive information such as identity and payment information with the Respondent. Moreover, the Panel also accepts that, given the unclear origin and the heavily discounted prices, it is very likely that the products offered for sale by the Respondent on such websites constitute counterfeit 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 names, see in this regard also *Ok! Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#).

Furthermore, currently, the disputed domain name <mooofurniture.shop> 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 such disputed domain name on the Respondent (see 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 composition of the disputed domain names, which incorporates the Complainant's trademark together with the additional terms related to the Complainant's business, is inherently confusing as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. 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 and distinctiveness of the Complainant's prior registered trademarks, the Panel finds that the subsequent registration of the disputed domain names clearly and consciously targeted the Complainant's prior registered trademarks for MOOOI. The Panel deducts from these efforts to consciously target the Complainant's prior registered 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 names. This finding is confirmed by the fact that the websites linked to the disputed domain names have been indeed used to offer for sale presumably counterfeit MOOOI products. In the Panel's view, these 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 names in bad faith.

As to use of the disputed domain names in bad faith, the Complainant provides evidence that both disputed domain names have been used for active websites, displaying the Complainant's trademarks, official product images (thereby likely violating the Complainant's copyrights) and offering products for sale that are likely counterfeit products. The Panel concludes from these facts that the Respondent is intentionally attracting Internet users for commercial gain to such websites, by creating consumer confusion between the website associated with the disputed domain names and the Complainant's trademarks. This constitutes direct evidence of the Respondent's bad faith under paragraph 4(b)(iv) of the Policy.

Furthermore, as to the disputed domain name <mooofurniture.shop>, which now directs to an inactive website, the Panel refers to the [WIPO Overview 3.0](#), section 3.3, which 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 fact that such disputed domain name is confusingly similar to the Complainant's trademarks; that it was previously used to attract Internet users for commercial gain to such website by creating consumer confusion; that the Complainant's trademarks enjoy a high degree of distinctiveness and they have been intensively used; and that the unlikelihood of any good faith use to which this disputed domain name may be put by the Respondent. In these circumstances, the Panel considers that the current passive holding of the disputed domain name <mooofurniture.shop> by the Respondent does not change the Panel's finding of the use of this disputed domain name in bad faith. The preceding elements lead the Panel to conclude that the Respondent is using both disputed domain names 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 names <mooofurniture.shop> and <moooisale.com> be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: July 2, 2023