

## **ADMINISTRATIVE PANEL DECISION**

No Ordinary Designer Label Limited t/a Ted Baker v. Client Care,  
Web Commerce Communications Limited  
Case No. D2023-2429

### **1. The Parties**

The Complainant is No Ordinary Designer Label Limited t/a Ted Baker, United States of America (“United States”), represented by Authentic Brands Group, United States.

The Respondent is Client Care, Web Commerce Communications Limited, Malaysia.

### **2. The Domain Name and Registrar**

The disputed domain name <tedbakerussale.com> is registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 5, 2023. On June 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 7, 2023, 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 (John Doe) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 8, 2023 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 June 8, 2023.

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 June 12, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 2, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 5, 2023.

The Center appointed Eva Fiammenghi as the sole panelist in this matter on July 14, 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 the owner of the world-famous TED BAKER brand. The Complainant is currently, and for many years (about 35 years) has been, one of the world's leading manufacturers of apparel, accessories, footwear, homeware, and beauty, and has advertised, marketed, promoted, distributed and sold such worldwide under its well-known and famous TED BAKER trademark.

The Complainant owns TED BAKER trademark registrations around the world and through ongoing use, including, but not limited to, the following:

- United States Trademark TED BAKER Registration No. 2644551 registered on October 29, 2002, and covering goods in class 25; and
- United States Trademark TED BAKER Registration No. 2672649 registered on January 7, 2003, and covering goods in classes 9, 14, 18, 24.

The disputed domain name <tedbakerussale.com> was registered on May 18, 2022, and it is associated to an online store purportedly offering for sale TED BAKER goods at discounted prices.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant states that the disputed domain name is confusingly similar to the TED BAKER trademark, because it incorporates the trademark in its entirety, and the geographic abbreviation "us" and descriptive term "sale" do not prevent a finding of confusing similarity between the disputed domain name and the trademark.

The Complainant contends that the Respondent has been using the TED BAKER trademarks in the disputed domain name offering unauthorized and/or counterfeit TED BAKER goods and this leads consumers to think that the Complainant is somehow affiliated with the Respondent or endorsing its commercial activities while in fact, no such relationship exists.

The Respondent is not affiliated with the Complainant and there is no evidence to suggest that the Respondent has registered the disputed domain name with rights or legitimate interests.

The Complainant has never licensed or otherwise permitted the Respondent to use its trademarks or to register any domain name including its trademarks.

The Complainant requests that the disputed domain name be transferred to it.

##### **B. Respondent**

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

## 6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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.

These elements are discussed in turn below. In considering these elements, paragraph 15(a) of the Rules provides that the Panel shall decide the Complaint on the basis of statements and documents submitted and in accordance with the Policy, the Rules and any other rules or principles of law that the Panel deems applicable.

### A. Identical or Confusingly Similar

The Complainant has provided evidence and has thus established its rights in the TED BAKER trademark. In the present case, the disputed domain name is confusingly similar to the Complainant's trademark TED BAKER.

The TED BAKER trademark is recognizable in the disputed domain name.

Section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") states that "[w]here 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".

The addition of the abbreviation "us" and the term "sale" to the Complainant's trademark, does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark. See *Skyscanner Limited v. Domain Admin, Whois Privacy Corp*, WIPO Case No. [D2019-2881](#).

The Panel finds that the Complainant has proven that the disputed domain name is confusingly similar to the Complainant's mark.

Therefore, the Panel finds the first element of the Policy has been met.

### B. Rights or Legitimate Interests

According to the Policy, paragraph 4(a)(ii), the Complainant must demonstrate that the Respondent has no rights or legitimate interests in the disputed domain name.

The composition of the disputed domain name carries a risk of implied affiliation with the Complainant. The disputed domain name resolves to a website prominently displaying the Complainant's TED BAKER trademark and purportedly offering the Complainant's products for sale at a high discount. There is nothing in the available case file to suggest that the Respondent is in any way affiliated with the Complainant, nor has the Complainant authorized or licensed the Respondent to use its trademarks, or to seek registration of any domain name incorporating its trademarks.

The Respondent has not made any submissions or any demonstrations that it has rights or legitimate interests in the disputed domain name.

Past panels have found that in the absence of any license or permission from the Complainant to use any of its trademarks or to apply for or use any domain name incorporating those trademarks, it is clear that no

actual or contemplated *bona fide* or legitimate use of the domain name could be claimed by the Respondent. The Panel finds no evidence that the Respondent has used or undertaken any demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering goods or services.

Likewise, no evidence has been adduced that the Respondent has been commonly known by the disputed domain name; nor, for the reasons mentioned above, is the Respondent making a legitimate noncommercial or fair use of the disputed domain name.

The Panel concludes, noting that the Respondent lacks any rights or legitimate interests in the disputed domain name, that the second element of the Policy has, therefore, been met.

### **C. Registered and Used in Bad Faith**

The Complainant contends that the Respondent's registration and use of the disputed domain name is in bad faith, which the Respondent did not rebut.

On the evidence adduced, it is improbable that the Respondent was unaware of the Complainant's name, trademark, reputation, and goodwill when the disputed domain name was registered.

In *The Nasdaq Stock Market, Inc., v. Hamid Reza Mohammad Pouran*, WIPO Case No. [D2002-0770](#), the panel held: "The Respondent knew or should have known of the existence of the Complainant, [as] the Complainant's trademark [was] widely publicized globally and constantly featured throughout the Internet, and thus the Panel decides that the disputed domain names were registered in bad faith."

The Complainant has demonstrated that the disputed domain name offered for sale what purport to be the Complainant's goods. See *Valentino S.p.A. v. Chris Love and Chris Cookie*, WIPO Case No. [D2016-1086](#): "[...] the Panel infers that the Respondent has used the disputed domain names with the intention of benefitting from the Complainant's substantial goodwill in its widely-known VALENTINO trademark. In particular, the Respondent has used the disputed domain names for the purposes of websites which reproduce Complainant's trademarks and product images and are likely to mislead Internet users into believing that they are operated or approved by Complainant."

On the basis of the above, noting also the nature of the disputed domain name, the Panel finds that the Respondent registered the disputed domain name to attract Internet users by creating a likelihood of confusion with the Complainant's trademarks with the intention to use them for some illegitimate purpose.

Accordingly, pursuant to paragraph 4(b)(iv) of the Policy, this Panel finds that disputed domain name was registered and has been used in bad faith by the Respondent.

On this basis the Panel finds that the Complainant has satisfied the third element of the Policy, paragraph 4(a)(iii).

### **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 <tedbakerussale.com> be transferred to the Complainant.

/Eva Fiammenghi/

**Eva Fiammenghi**

Sole Panelist

Date: July 28, 2023