

ADMINISTRATIVE PANEL DECISION

No Ordinary Designer Label Limited t/a Ted Baker v. Client Care, Web
Commerce Communications Limited
Case No. D2023-3113

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 Names and Registrar

The disputed domain names <tboutletsgr.com> and <tbzaonline.com> are 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 July 19, 2023. On July 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 21, 2023, the 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 (John Doe) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 24, 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 July 24, 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 August 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 4, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 13, 2023.

The Center appointed Steven A. Maier as the sole panelist in this matter on September 29, 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 manufacturer of apparel, accessories, footwear, homeware, and beauty products under the name and trademark TED BAKER.

The Complainant is the owner of several hundred trademark registrations for or including the mark TED BAKER. Those registrations include, for example:

- European Union Trademark registration number 004267191 for the word mark TED BAKER, registered on April 16, 2007, for goods and services including articles of clothing in International Class 25; and
- International Trademark registration number 1123301 for the word mark TED BAKER LONDON, registered on February 28, 2012, for goods and services including articles of clothing in International Class 25.

The disputed domain name <tboutletsgr.com> was registered on April 10, 2023. The Complainant produces evidence that it has resolved to a website headed “TED BAKER – LONDON” and appearing to offer men’s and women’s clothing.

The disputed domain name <tbzaonline.com> was registered on May 29, 2023. The Complainant produces evidence that it has resolved to a website, similarly headed “TED BAKER – LONDON” and also appearing to offer men’s and women’s clothing.

5. Parties’ Contentions

A. Complainant

The Complainant states that it has used its TED BAKER trademark in commerce for over 35 years and that it spends millions of dollars globally marketing its goods and services under the TED BAKER mark. However, it provides no evidence in support of these contentions.

The Complainant submits that the disputed domain names are confusingly similar to its TED BAKER trademark. It states that, in the case of the disputed domain name <tboutletsgr.com>, the disputed domain name combines the abbreviation “TB” for its trademark with the term “outlets” and the geographical identifier “gr”. It contends that, in the case of the disputed domain name <tbzaonline.com>, the disputed domain name combines the abbreviation “TB” for its trademark with the geographical identifier “za” and the term “online”.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain names. It states that it has no relationship with the Respondent and has never authorized it to use its TED BAKER trademark, that the Respondent has not been commonly known by the disputed domain names and that the Respondent is making neither *bona fide* commercial use nor legitimate noncommercial or fair use of the disputed domain names. It contends that, instead, the Respondent is using the disputed domain names for the purpose of fake TED BAKER websites, offering unauthorized and/or counterfeit goods.

The Complainant contends that the disputed domain names have been registered and are being used in bad faith. It produces evidence of the websites referred to above, although by way of one screen print in each case only, as provided by the Digital.com website hosting checking tool. It submits that the Respondent is attempting to pass itself off as the Complainant, and that it is using the disputed domain names to attract Internet users to its websites, for commercial gain, by creating a likelihood of confusion with the Complainant's TED BAKER trademark.

The Complainant requests the transfer of the disputed domain names.

B. Respondent

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

6. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

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

A. Identical or Confusingly Similar

The Complainant has established that it is the owner of registered trademark rights for the mark TED BAKER. It claims that the letters "TB" in the disputed domain names represent an abbreviation of, and are therefore similar to, that trademark.

As discussed in section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the test for confusing similarity:

"... typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name."

However, section 1.7 goes on to say that:

"In specific limited instances, while not a replacement as such for the typical side-by-side comparison, where a panel would benefit from affirmation as to confusing similarity with the complainant's mark, the broader case context such as website content trading off the complainant's reputation... may support a finding of confusing similarity."

The section continues:

"In this context, panels have also found that the overall facts and circumstances of a case (including relevant website content) may support a finding of confusing similarity, particularly where it appears that the respondent registered the domain name precisely because it believed that the domain name was confusingly similar to a mark held by the complainant."

Section 1.15 of [WIPO Overview 3.0](#) adds:

“In some instances, panels have... taken note of the content of the website associated with a domain name to confirm confusing similarity whereby it appears prima facie that the respondent seeks to target a trademark through the disputed domain name.”

The Panel also notes that UDRP panels in prior cases have found that an abbreviation for a trademark may be viewed as confusingly similar to that trademark, particularly in circumstances where the respondent is targeting the trademark in question (see e.g., *Groupe Vanessa Bruno v. Tbdsh Rvdsh*, WIPO Case No. [D2023-0628](#), and *Fenix International Limited c/o Walters Law Group v. Privacy Service Provided by Withheld for Privacy ehf / Nemanja Krecej, Rocket Science Group*, WIPO Case No. [D2022-1622](#)).

The Panel notes further that the first element of the Policy involves a relatively low threshold, being in effect a requirement for the complainant to establish that it has standing to bring the Complaint.

Taking all the above matters into account, and in particular the Panel's view that the Respondent has plainly sought to target the Complainant's TED BAKER trademark as explained below, the Panel finds the abbreviation “TB” to be sufficient to render the Complainant's trademark recognizable within the both of disputed domain names. Since none of the additional terms included in either of the disputed domain names, i.e., “outlets”, “gr”, “za” or “online”, prevents the Complainant's trademark from being recognizable, the Panel finds that the disputed domain names are confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

In the view of the Panel, the Complainant's submissions referred to above give rise to a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file a Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain names, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. Moreover, the Panel finds that the Respondent has registered and used the disputed domain names for the purpose of dishonestly targeting the Complainant's TED BAKER trademark, which cannot give rise to rights or legitimate interests in respect of the disputed domain names. The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

C. Registered and Used in Bad Faith

While the Complainant omits to provide evidence of the historical use and acquired reputation of the Complainant's TED BAKER trademark, the Panel finds nonetheless that the mark is distinctive and has become widely known in the fashion sector to refer to the Complainant and its products. Given the lack of any explanation from the Respondent for its choice of the disputed domain names, and the use to which the disputed domain names have been put, the Panel infers that the Respondent registered the disputed domain names in the knowledge of the Complainant's TED BAKER trademark and with the intention of trading unfairly off the goodwill associated with that trademark.

Concerning the Respondent's use of the disputed domain names, the Complainant's evidence is again somewhat deficient, comprising only a single (relatively poor quality) screen shot of each of the websites in question, which provides little information about the websites overall. Certainly, there is insufficient evidence for the Panel to conclude, as the Complainant claims, that the websites have offered unauthorized or counterfeit goods for sale. However, based on the albeit limited evidence provided, the Panel is prepared to accept that each of the disputed domain names has been used for the purpose of a website which impersonates the Complainant by its heading “TED BAKER – LONDON” and its apparent offer of men's and women's clothing for sale.

The Panel infers in the circumstances that the Respondent has used the disputed domain names in an attempt to deceive Internet users into believing that its websites are legitimately connected with the Complainant and that, by using the disputed domain names, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its websites by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of its websites or of products or services on its websites (paragraph 4(b)(iv) of the Policy).

The Panel finds in the circumstances 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, <tboutletsgr.com> and <tbzaonline.com>, be transferred to the Complainant.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: October 13, 2023