

## **ADMINISTRATIVE PANEL DECISION**

### **No Ordinary Designer Label Limited t/a Ted Baker v. Chris Madison Case No. D2023-3114**

#### **1. The Parties**

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

Respondent is Chris Madison, United States.

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

The disputed domain name <tedbaker-belgie.com> is registered with Key-Systems GmbH (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 name. On July 21, 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 Complainant on July 25, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on July 25, 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 Respondent of the Complaint, and the proceedings commenced on August 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 24, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on September 1, 2023.

The Center appointed Timothy D. Casey as the sole panelist in this matter on September 27, 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

Complainant has been a manufacturer of apparel, accessories, footwear, homeware and beauty products sold under the TED BAKER brand for over 35 years.

Complainant claims it is the owner of more than 500 trademark registrations that include TED BAKER as the trademark or part of the trademark (the "TED BAKER Marks"), including the following:

Mark	Jurisdiction	Class(es)	Registration No.	Registration Date
TED BAKER	European Union	25	004267191	April 16, 2007
TED BAKER LONDON	European Union	3, 9, 14, 18, 25	010245827	January 11, 2012

The disputed domain name was registered April 15, 2022. At the time of filing the Complaint, the disputed domain name resolved to an online store displaying Complainant's trademark and allegedly offering for sale Complainant's branded goods.

#### 5. Parties' Contentions

##### A. Complainant

Complainant contends it has rights in trademarks per the TED BAKER Marks, that the disputed domain name is confusingly similar to the TED BAKER Marks because the TED BAKER Marks are recognizable within the disputed domain name, and that the hyphen, the term "belgie", and Top-Level Domain are inconsequential to a confusing similarity determination.

Complainant contends it has not licensed, contracted or otherwise permitted Respondent to use the TED BAKER Marks, including as part of the disputed domain name, and there is no evidence that Respondent is using or plans to use the disputed domain name for a *bona fide* offering of goods or services that do not infringe the TED BAKER Marks. Rather, Complainant contends that Respondent has used the disputed domain name in connection with a website offering unauthorized and/or counterfeit goods bearing the TED BAKER Marks for illegitimate commercial gains. Complainant further notes that Respondent is not commonly known by the disputed domain name and is not making legitimate noncommercial or fair use of the disputed domain name.

Complainant contends that Respondent is well aware of the TED BAKER Marks and that the gap between registration of the TED BAKER Marks and Respondent's registration of the disputed domain name can indicate bad faith registration. Complainant further contends that Respondent's website uses the TED BAKER Marks in bad faith to sell competing and unauthorized goods and uses the disputed domain name to attract Internet users to its website for commercial gain in an effort to create a likelihood of confusion with the TED BAKER Marks as to the source, sponsorship, affiliation, or endorsement.

##### B. Respondent

Respondent did not reply to Complainant's contentions.

## 6. Discussion and Findings

Complainant's use of the TED BAKER Marks for more than 35 years and registrations for the same are more than sufficient to establish that Complainant has trademark rights in the TED BAKER Marks.

Complainant contends that the disputed domain name is confusingly similar to the TED BAKER Marks.

Given that Complainant's TED BAKER Marks are recognizable in the disputed domain name, the Panel agrees and finds that the disputed domain name is confusingly similar to the TED BAKER Marks.

### A. Rights or Legitimate Interests

The Panel finds that Respondent has no rights or legitimate interests in the disputed domain name. Respondent does not appear to be commonly known by the disputed domain name. Complainant has not permitted Respondent to use the TED BAKER Marks.

Respondent's use of the disputed domain name in association with a website impersonating Complainant and offering unauthorized and/or counterfeit goods that compete with Complainant is not a *bona fide* offering of goods or services that would give rise to rights or legitimate interests in the disputed domain name.

Furthermore, the nature of the disputed domain name, comprising the TED BAKER Marks and adding a hyphen and a geographical term associated with Complainant's business, carries a risk of implied affiliation with Complainant as it effectively impersonates or suggests sponsorship or endorsement by Complainant, and accordingly cannot constitute a fair use in these circumstances. See section 2.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). The addition of the geographical term in the disputed domain name only serves to further increase the level of falsely suggested sponsorship or endorsement by Complainant.

Respondent has not rebutted Complainant's *prima facie* case and has provided no arguments or evidence showing potential rights or legitimate interests in the disputed domain name. For these reasons, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name.

### B. Registered and Used in Bad Faith

Given i) the timing of Complainant's first use of the TED BAKER Marks and the numerous prior registrations of the TED BAKER Marks, predating registration of the disputed domain name by years, and Respondent's use of the TED BAKER Marks in association with an impersonating website, ii) the inherently misleading nature of the disputed domain name as a combination of the TED BAKER Marks with a geographical term, in combination with a deceptive website engaged in potentially disreputable activity, Respondent had clear knowledge of the TED BAKER Marks and Complainant's business prior to registration.

The Panel finds that Respondent's registration of the disputed domain name was in bad faith.

In addition, the Panel finds Respondent's usage of the disputed domain name to attract consumers to a website associated with the disputed domain name by falsely associating the website with Complainant constitutes use in bad faith consistent with paragraph 4(b)(iv) of the Policy.

The Panel concludes that the disputed domain name was registered and has been 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 <tedbaker-belgie.com> be transferred to the Complainant.

*/Timothy D. Casey/*

**Timothy D. Casey**

Sole Panelist

Date: October 14, 2023