

## **ADMINISTRATIVE PANEL DECISION**

Bostik Limited v. Arturo Meza

Case No. D2023-3143

### **1. The Parties**

The Complainant is Bostik Limited, United Kingdom (the “UK”), represented by In Concreto, France.

The Respondent is Arturo Meza, United States of America.

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

The disputed domain name <ob1originals.com> (the “Domain Name”) is registered with Google LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 21, 2023. On July 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On the same date, the Registrar transmitted by email to the Center its verification disclosing registrant and contact information for the Domain Name which differed from the named Respondent (anonymized, Contact Privacy Inc. Customer 7151571251) 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 amended Complaint on July 28, 2023.

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 Respondent of the Complaint, and the proceedings commenced on August 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 21, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 28, 2023.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on September 1, 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 to ensure compliance with the Rules, paragraph 7.

#### 4. Factual Background

The Complainant is a UK company established in 1900. It is part of ARKEMA Group which offers a wide range of products for various domains such as paints, adhesives, glue etc. for the general industry and consumer goods. The Complainant is one of the largest adhesive and sealant companies in the world, employing some 5,000 people in 50 countries across five continents. Among the portfolio of offered products, the Complainant is exploiting OB1 and OB1 ORIGINAL for a large range of products: multi-surface construction sealant & adhesive, superglue adhesive & multi-surface cleaner to surface sanitizer and hand gel sanitizer through the webpage “<https://www.ob1original.com>”.

The Complainant owns trademark registrations in OB1, such as European Union trademark number 018119560 registered on January 19, 2021, and European Union trademark number 018126614 registered on January 14, 2021. The Complainant also owns the domain name <ob1original.com> registered in 2019.

The Domain Name appears to be registered on March 2, 2023. At the time of the Complaint, and the time of drafting the Decision, the Domain Name resolved to an error website.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant provides evidence of trademark registrations and argues that the Domain Name is similar to the Complainant's prior trademarks as the Complainant's trademark is incorporated in its entirety. The second term of the Domain Name ORIGINALS is descriptive and, in any case, also reproduces the Complainant's domain name save the added “s”.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Domain Name is unused since registration on March 2, 2023. Therefore, there is no evidence that the Respondent has used the Domain Name in connection with a *bona fide* offering of goods or services, or any legitimate noncommercial or fair use of the Domain Name.

The Complainant argues that it is unlikely the Respondent chose the Domain Name without any knowledge of the trademarks of the Complainant and/or the Complainant's exploitation through the similar domain name <ob1original.com>. The Respondent is engaged in “passive holding” of the Domain Name. The Respondent intended to capitalize on the reputation of the Complainant.

##### B. Respondent

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

#### 6. Discussion and Findings

##### A. Identical or Confusingly Similar

The test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Domain Name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 1.7.

The Complainant has established that it has rights in the trademark OB1. The Domain Name differs only from the trademark in the addition of “originals”. The addition does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8. For the purpose of assessing the confusing similarity under paragraph 4(a)(i) of the Policy, the Panel may ignore the gTLD; see [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, the Panel finds the first element of the Policy has been established.

## **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name such as those enumerated in the Policy or otherwise. Based on the record, the Respondent is not affiliated or related to the Complainant. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent’s use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering of goods or services.

Based on the available record, the Panel finds the second element of the Policy has been established.

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

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Based on the composition of the Domain Name, it is probable that the Respondent was aware of the Complainant and its prior rights when the Respondent registered the Domain Name. Based on the case file, it appears that the Respondent is intentionally creating a likelihood of confusion with the Complainant’s trademark as to the source, sponsorship, affiliation, or endorsement. The non-use of the Domain Name does not alter this, see [WIPO Overview 3.0](#), section 3.3. The Complainant’s trademark is distinctive with a degree of reputation in the market. The Respondent has failed to provide any evidence of good-faith use, and initially concealed its identity. Based on the case file, it appears implausible that the Respondent may put the Domain Name to any good faith use.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) of the Policy.

The third element of the Policy has been established.

## 7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders the Domain Name <ob1originals.com> transferred to the Complainant.

*/Mathias Lilleengen/*

**Mathias Lilleengen**

Sole Panelist

Date: September 8, 2023