

## **ADMINISTRATIVE PANEL DECISION**

No Ordinary Designer Label Limited t/a Ted Baker v. Client Care, Web  
Commerce Communications Limited  
Case No. D2023-3187

### **1. The Parties**

The Complainant is No Ordinary Designer Label Limited t/a Ted Baker, United States of America (the “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 <tedbakernzoutlet.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 July 24, 2023. On July 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 26, 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 July 26, 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 amendments to the Complaint on August 1 and August 4, 2023.

The Center verified that the Complaint together with the amendments 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 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 27, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 31, 2023.

The Center appointed James Wang as the sole panelist in this matter on September 8, 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 Ted Baker brand and for many 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 goods worldwide under its TED BAKER trademark.

The Complainant has a global portfolio of more than 500 trademarks covering a wide variety of goods and services and a large portfolio of copyrights for images used in association with the advertising, marketing and sale of TED BAKER-branded products.

The Complainant's TED BAKER trademark registrations include but are not limited to:

- New Zealand trademark registration No. 268104 in Class 25, registered on August 26, 1999;
- New Zealand trademark registration No. 752190 in Class 35, registered on August 9, 2007.

The disputed domain name was registered on February 14, 2023, and resolved to a website offering unauthorized TED BAKER goods.

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

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

The Complainant contended as follows:

The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The Respondent has no rights or legitimate interests in respect of the disputed domain name. The disputed domain name was registered and is being used in bad faith.

The Complainant requested that the disputed domain name be transferred to the Complainant.

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

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

#### **6. Discussion and Findings**

According to paragraph 4(a) of the Policy, 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 has been registered and is being used in bad faith.

##### **A. Identical or Confusingly Similar**

The Complainant has provided evidence that it has obtained TED BAKER trademark registrations.

The disputed domain name incorporates the entirety of the TED BAKER trademark. As the TED BAKER trademark is recognizable within the disputed domain name, the disputed domain name is confusingly similar to the Complainant's TED BAKER trademark. The addition of "nz" and "outlet" into the disputed domain name does not prevent a finding of confusing similarity. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8.

The Panel therefore finds that the Complaint has satisfied paragraph 4(a)(i) of the Policy.

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

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.

According to the Complaint, the Respondent has not been licensed, contracted, or otherwise permitted by the Complainant in any way to use the TED BAKER trademark or to apply for any domain names incorporating the TED BAKER trademark.

The disputed domain name resolved to a website offering unauthorized TED BAKER goods. Such use does not constitute use of the disputed domain name in connection with a *bona fide* offering of goods or services. The Respondent has not been commonly known by the disputed domain name and is not making a legitimate noncommercial or fair use of the disputed domain name.

The Respondent submitted no response or evidence to rebut the allegations of the Complainant.

The Panel finds that the Complainant has made out a *prima facie* case that the Respondent lacks rights or legitimate interests, and the Respondent failed to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

The Panel therefore finds that the Complaint has satisfied paragraph 4(a)(ii) of the Policy.

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

The evidence provided by the Complainant in this case shows that the Complainant's TED BAKER trademark has been registered for more than 20 years. A simple online search could reveal the Complainant and its TED BAKER trademark.

Given the above, it would be inconceivable that the Respondent registered the disputed domain name without knowledge of the Complainant or the TED BAKER trademark at the time of the registration. In line with prior panels, the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

Meanwhile, the Complainant's evidence shows that the disputed domain name resolved to a website offering unauthorized TED BAKER goods. Also considering the "nz" and "outlet" added into the disputed domain name may easily mislead Internet users into believing that the website is operated or authorized by a New Zealand outlet of the Complainant, the Panel agrees with the Complainant's contention that the Respondent is intentionally trying to create a likelihood of confusion with the Complainant. The Panel is of the view that the Respondent is using the disputed domain name in bad faith.

The Panel therefore finds that the Complaint has satisfied paragraph 4(a)(iii) of 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 name <tedbakernzoutlet.com> be transferred to the Complainant.

*/James Wang/*

**James Wang**

Sole Panelist

Date: September 22, 2023