

ADMINISTRATIVE PANEL DECISION

Autumnpaper Ltd v. Qiu Xiaofeng
Case No. D2023-3671

1. The Parties

The Complainant is Autumnpaper Ltd, United Kingdom, represented by Studio Barbero, Italy.

The Respondent is Qiu Xiaofeng, China.

2. The Domain Names and Registrar

The disputed domain names, <alexandermcqueenadidasi.com>, <alexandermcqueenbudapest.com>, <alexandermcqueenbulgaria.com>, <alexandermcqueenisrael.com>, <alexandermcqueenpatike.com>, <alexandermcqueentenisicehrvatska.com>, and <alexandermcqueenuae.com>, are registered with Paknic (Private) Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 1, 2023. On September 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 5, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on September 6, 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 September 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 September 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 1, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 9, 2023.

The Center appointed Marilena Comanescu as the sole panelist in this matter on October 11, 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, a United Kingdom company, is the owner of the international luxury fashion brand ALEXANDER McQUEEN. ALEXANDER McQUEEN is a major international player on the fashion scene and offers a wide range of luxury products from Haute Couture and Pret-a-Porter to an extensive accessories collection that includes bags, shoes, small leather goods, belts, eyewear, silks and perfumes.

Since the ALEXANDER McQUEEN brand was founded in 1992 by the British fashion designer and couturier Alexander McQueen, the brand quickly obtained international recognition and achieved numerous accolades and recognitions in the fashion industry. The first ALEXANDER McQUEEN store opened in London in 1999, reaching at the 100 McQueen stores worldwide by the end of 2020. Currently the Complainant distributes its products through a worldwide network of authorized third-party retailers, exclusive departments and specialty stores, encompassing Europe, Asia and North America. Wholesale distribution in select specialty and department stores is complemented by a growing number of ALEXANDER McQUEEN-owned boutiques, located in numerous countries, such as China, Japan, Italy, Germany, United Kingdom, Australia, and New Zealand. ALEXANDER McQUEEN revenues were estimated to be EUR 500 million in 2020.

The Complainant owns worldwide trademark registrations for the mark ALEXANDER McQUEEN, such as the following:

- the International trademark registration number 840159A for the word ALEXANDER McQUEEN, registered on April 23, 2004, covering goods and services in Nice classes 9, 14, 18, 25, and designating, *inter alia*, China; and
- the Chinese trademark registration number 22351583 for the word ALEXANDER McQUEEN, filed on December 22, 2016, and registered on January 28, 2018, covering goods in Nice class 25.

The Complainant has a strong presence online through the most popular social media platforms, and owns numerous domain names incorporating the mark ALEXANDER McQUEEN, such as <alexandermcqueen.com> registered on September 12, 2000, or <alexandermcqueen.fr> registered on May 14, 2009.

The disputed domain names were all registered on December 20, 2022.

At the time of filing the Complaint, all the disputed domain names directed to websites displaying the Complainant's trademarks and official advertising images, where purported ALEXANDER McQUEEN products were advertised and offered for sale at discounted prices, copyright claims were presented and no disclaimer was provided.

Before commencing the present procedure, on July 4, 2023, the Complainant sent cease-and-desist letters to the listed registrants of the disputed domain names, followed by several reminders. No reaction was received.

The Respondent was involved in at least two prior UDRP disputes involving third parties' trademarks and decided in the favor of the complainants. See *Alpargatas S.A and Alpargatas Europe, S.L.U v. Qiu Xiaofeng*, WIPO Case No. [D2023-2640](#) and *Alpargatas S.A., ALPARGATAS EUROPE, S.L.U v. Qiu Xiaofeng*, WIPO Case No. [D2022-4299](#).

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to its well-known trademark ALEXANDER McQUEEN with additional non distinctive elements, mostly referring to countries/cities such as "budapest", "bulgaria", "israel", "uae" and "hrvatska" (Croatia); and/or combination of letters which may be interpreted as a country code, such as uae; and/or the Complainant's products "adidasi" ("sneakers" in Romanian) or "patike" ("sneakers" in Croatian), or a combination of both; that the Respondent has no rights or legitimate interests in the disputed domain names; and that the Respondent registered and is using the disputed domain names in bad faith to redirect Internet users to commercial websites, displaying the Complainant's trademarks and copyrighted images and offering for sale *prima facie* counterfeit ALEXANDER McQUEEN branded products.

B. Respondent

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

6. Discussion and Findings

In view of the absence of a Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent. Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the following circumstances are met:

- (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 the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain names. See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms here, "adidasi", "budapest", "bulgaria", "israel", "patike", "tenisicehrvatska", "uae", may bear on assessment of the second and third elements, the Panel finds the addition of such terms do not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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. [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 disputed domain names. 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 disputed domain names such as those enumerated in the Policy or otherwise.

According to the evidence provided in the Complaint, the Respondent has used all the disputed domain names in connection with websites promoting and offering for sale goods identical to those of the Complainant with significant price reductions, reproducing the Complainant’s trademark and official campaigns, and product images, without providing any disclaimer. Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Further, the composition of the disputed domain names which combine the Complainant’s trademark with geographical terms and/or generic/non-distinctive terms referring to the Complainant’s products or otherwise, suggests an affiliation with the trademark owner. UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

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.

In the present case, the Panel notes that the disputed domain names were registered in bad faith, with knowledge of the Complainant and its trademark particularly because the Complainant’s ALEXANDER McQUEEN trademark was registered starting 1997, and through extensive use and marketing, it has become well-known worldwide. Furthermore, the use of the disputed domain names enforces such finding.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt “to attract, for commercial gain, Internet users to [the respondent’s] website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of [the respondent’s] website or location or of a product or service on [the respondent’s] website or location” is evidence of registration and use in bad faith.

Given that the disputed domain names incorporate the Complainant’s trademark with additional geographical, or terms related to the Complainant’s industry, and the websites operated under the disputed domain names display the Complainant’s trademark, official campaigns and product images, providing very likely counterfeit copies of the Complainant’s products, indeed in this Panel’s view, the Respondent has intended to attract Internet users accessing the websites corresponding to the disputed domain names who may be confused and believe that the websites are held, controlled by, or somehow affiliated with or related to the Complainant, for the Respondent’s commercial gain. This activity may also disrupt the Complainant’s business and tarnish its trademark.

Paragraph 4(b)(ii) of the Policy provides another circumstance of bad faith registration and use when the respondent registered the disputed domain name in order to prevent the owner of the trademark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct. The Panel finds that registering for at least seven disputed domain names incorporating the Complainant’s distinctive trademark, in the same day, can be considered a pattern of abusive conduct and registration of the disputed domain names in bad faith. Furthermore, the Respondent was involved in at least other two prior UDRP disputes solved against it, see cases listed under Section 4 above.

The Respondent has not responded to the Complainant’s prior letters, had not participated in the present proceeding and provided inaccurate or incomplete contact information in the WhoIs. Such facts, together with all the other elements in this case, supports, in the eyes of this Panel, a finding of bad faith behavior.

Based on the available record, the Panel finds 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 that the disputed domain names, <alexandermcqueenadidasi.com>, <alexandermcqueenbudapest.com>, <alexandermcqueenbulgaria.com>, <alexandermcqueenisrael.com>, <alexandermcqueenpatike.com>, <alexandermcqueentenisicehrvatska.com>, and <alexandermcqueenuae.com>, be transferred to the Complainant.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: October 25, 2023