

ADMINISTRATIVE PANEL DECISION

Lemon Inc. v. Yousaf Nadeem

Case No. D2023-3961

1. The Parties

The Complainant is Lemon Inc., Cayman Islands, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Yousaf Nadeem, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <capcut-templates.com> is registered with Squarespace Domains LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 22, 2023. On September 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 25, 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 (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 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 an amended Complaint on September 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 October 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 24, 2023. The Respondent did not submit any formal response. The Center received informal communications from the Respondent on September 26, 27, and 28, 2023. Accordingly, the Center notified the Parties with Commencement of Panel Appointment Process email on October 26, 2023.

The Center appointed Andrea Mondini as the sole panelist in this matter on November 13, 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, Lemon Inc., is affiliated with Bytedance Ltd, which is an Internet technology company providing creative content platforms. The Complainant launched a video editing app called CapCut in April 2020.

The Complainant owns numerous trademark registrations for CAPCUT in many jurisdictions throughout the world, including:

- India Trademark Registration No. 4526907, registered on June 10, 2020;
- United States of America Trademark Registration No. 6847261, registered on September 13, 2022;
- United Kingdom Trademark Registration No. UK00003501065, registered on March 5, 2021;
- European Union Trade Mark No. 018255581, registered on May 15, 2021;
- Indonesia Trademark Registration No. IDM001051262, in stylized form, registered on January 24, 2023.

The Complainant holds the domain name, <capcut-templates.com> which resolves to its official website.

The disputed domain name was registered on February 6, 2023.

The record shows that the disputed domain name resolves to a website featuring the Complainant's CAPCUT trademark and logo, and offering links to download templates of other CapCut users without authorization.

On August 15, 2023, the Complainant sent a cease and desist email to the Respondent complaining about the unauthorized use of the CAPCUT trademark on the website posted under the disputed domain name and requesting its deactivation. In its email of August 31, 2023, the Respondent indicated that he would take steps to avoid confusion. However, in the following the disputed domain name has not been deactivated.

5. Parties' Contentions

A. Complainant

The Complainant contends as follows:

The Complainant's CapCut app reached 140 million downloads globally in the first half of 2021, making it the world's ninth-most downloaded mobile app, and its website "www.capcut.com" had a total of more than 18 million visitors in August 2023 alone. The Complainant's CAPCUT trademark is therefore well recognized worldwide.

The disputed domain name is identical or confusingly similar to the CAPCUT trademark in which the complainant has rights, because it incorporates this trademark in its entirety, and the addition of the word “templates” and a hyphen is not sufficient to avoid confusing similarity. It is also well established that the generic Top-Level Domain (“gTLD”), such as “.com,” in a disputed domain name is disregarded.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The CAPCUT trademark is associated with the Complainant, since the CAPCUT trademark has been extensively used to identify the Complainant and its services. The Respondent has not been authorized by the Complainant to use this trademark, is not commonly known by the disputed domain name, and there is no evidence of the Respondent’s use, or demonstrable preparation to use, the disputed domain name in connection with a *bona fide* offering of goods and services. In particular, on its website posted under the disputed domain name, the Respondent offers links to Instagram Reel templates, which directly compete with the Complainant’s own services. Therefore, the Respondent has failed to offer only the Complainant’s CAPCUT product on this website (as required by the “Oki Data test”), but also offered competing products.

The disputed domain name was registered in bad faith because it is obvious that the Respondent was aware of both the Complainant and its well-known CAPCUT trademark at the time it registered the disputed domain name.

The disputed domain name was used in bad faith because it resolves to a website featuring the Complainant’s CAPCUT trademark and logo as well as offering links to download templates of other CapCut users without authorization. The impression given by the disputed domain name and the website posted thereunder causes consumers to believe that the Respondent is associated with the Complainant, although in fact it is not. Thereby, the Respondent is attempting to profit from such confusion by earning click revenue from the sponsored ads on its website.

B. Respondent

The Respondent did not submit any formal response but sent to the Center informal emails on September 26, 27, and 28, 2023, expressing its willingness to negotiate with ByteDance either to “close this domain” or negotiate its sale to ByteDance, emphasizing the effort it invested in promoting CapCut in India.

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

(i) the disputed domain name is identical or confusingly similar to the 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 name; and (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has trademark rights by virtue of the registrations it owns for its CAPCUT trademark.

The Panel notes that the disputed domain name <capcut-templates.com> incorporates the CAPCUT trademark in its entirety. The addition of the hyphen and the term “templates” does not prevent a finding of confusing similarity under the Policy, paragraph 4(a)(i). See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8.

The addition of the gTLD “.com” in the disputed domain name is a standard registration requirement and as such is disregarded under the confusing similarity test under the Policy, paragraph 4(a)(i). See [WIPO Overview 3.0](#), section 1.11.1.

For these reasons, the Panel concludes that the disputed domain name is confusingly similar to the Complainant's CAPCUT trademarks.

The first element of paragraph 4(a) of the Policy has been met.

B. Rights or Legitimate Interests

The Complainant states that the Respondent is not commonly known by the dispute domain name, that it has not authorized the Respondent to use the CAPCUT trademark and that before notice of the dispute, there is no evidence of the Respondent's use, or demonstrable preparation to use, the disputed domain name in good faith.

The Panel does not see any contrary evidence from the record. In particular, the Panel notes that the Respondent's website posted under the disputed domain name offers also links to Instagram Reel templates, which directly compete with the Complainant's own services. Therefore, the Respondent has failed to use this site to offer only the Complainant's CAPCUT product (as required by the so-called "Oki Data test"), but also offered competing products. As a consequence, the Panel finds that such use does not constitute a *bona fide* offering of goods or services. See [WIPO Overview 3.0](#), section 2.8.

In the view of the Panel, the Complainant has succeeded in raising a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

Furthermore, the nature of the disputed domain name, comprising the Complainant's trademark and the term "templates" carries a risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

Therefore, the Panel finds that the Respondent does not have any rights or legitimate interests in the disputed domain name.

The second element of paragraph 4(a) of the Policy has been met.

C. Registered and Used in Bad Faith

The Complainant has shown to the satisfaction of the Panel that its CAPCUT trademarks is well-known.

In the view of the Panel, noting that the Complainant's trademark predates the registration of the disputed domain name, the nature of the disputed domain name and the use of the Complainant's logo on the website posted under the disputed domain name, it is inconceivable that the Respondent could have registered the disputed domain name without knowledge of the Complainant's well-known trademark. In the circumstances of this case, this is evidence of registration in bad faith.

The disputed domain name redirects to a website featuring the Complainant's identical CAPCUT trademark and logo, offering links to download templates of other CapCut users, thus creating the impression of an affiliation with the Complainant which in fact does not exist. Under these circumstances, the disclaimer in small print at the bottom of the site stating that the website is not associated with the Complainant is not sufficient to avoid a likelihood of confusion. The Panel thus finds that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion as to the source, sponsorship or affiliation of its website in the sense of paragraph 4(b)(iv) of the Policy.

The Panel thus finds that the disputed domain name was registered and is being used in bad faith.

The third element of paragraph 4(a) of the Policy has been met.

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, <capcut-templates.com>, be transferred to the Complainant.

/Andrea Mondini/

Andrea Mondini

Sole Panelist

Date: November 27, 2023