

## **ADMINISTRATIVE PANEL DECISION**

Julius Blum GmbH v. Dang Van Giap  
Case No. D2023-4088

### **1. The Parties**

The Complainant is Julius Blum GmbH, Austria, represented by Torggler & Hofmann Patentanwälte GmbH & Co KG, Austria.

The Respondent is Dang Van Giap, Viet Nam.

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

The Disputed Domain Name <blumviet.com> is registered with iNET Corporation (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on September 29, 2023. On September 29, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On October 2, 2023, the Registrar transmitted by email to the Center its verification response disclosing the registrant and contact information for the Disputed Domain Name which differed from the named Respondent (Name not available) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 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 did not file a substantive amendment but rather a supplementary addition of registrar-provided registrant information to the Complaint on October 9, 2023.

On October 6, 2023, the Center transmitted an email communication to the Parties in English and Vietnamese regarding the language of the proceeding. On October 9, 2023, the Complainant submitted a request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 in English and Vietnamese of the Complaint, and the proceedings commenced on October 12, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 1, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 2, 2023.

The Center appointed Pham Nghiem Xuan Bac as the sole panelist in this matter on November 15, 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 an Austrian company that has been in business since 1952. With nearly 9,500 employees, the Complainant is one of the largest manufacturers of furniture fittings in the world.

The Complainant is the registered owner of many trademarks that consist of or contain the word "BLUM" (the "BLUM trademarks") for furniture-related products in many jurisdictions around the world, including, but not limited to the International Trademark Registrations No. 598611 registered on February 16, 1993, No. 996626 registered on November 18, 2008, and No. 1171363 registered on April 29, 2013, all designating Viet Nam.

Additionally, the Complainant is the registrant of the domain name <blum.com>, which features the BLUM trademarks.

The Disputed Domain Name was registered on August 31, 2023. As of the date of this Decision, the Disputed Domain Name resolves to an active website offering kitchen cabinet accessories.

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

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

The Complainant contends that each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case, as follows:

(i) The Disputed Domain Name is identical or confusingly similar to a trademark or service mark, in which the Complainant has rights.

First, the Complainant contends that it has rights in and to the BLUM trademarks in many jurisdictions, including in Viet Nam, where the Respondent resides.

Second, the Complainant submits that the Disputed Domain Name is confusingly similar to its BLUM trademarks. Particularly, the Disputed Domain Name incorporates the distinctive mark BLUM and adds the geographical suffix "viet", which does not prevent a finding of confusing similarity with the Complainant's trademarks. Further, the Complainant argues that the Respondent employs the Disputed Domain Name for selling and advertising hardware products, aligning with goods covered by the Complainant's trademarks.

(ii) The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

First, the Respondent is neither a licensee of the Complainant nor otherwise authorized to use the Complainant's BLUM trademarks.

Second, the Complainant contends that the Respondent is not making a legitimate noncommercial, or fair use of the Disputed Domain Name. The Complainant asserts that the Respondent is using the Disputed Domain Name, which incorporates the geographical indicator implies an association with the Complainant, leading customers to expect contact with the Complainant's Vietnamese subsidiary. Furthermore, the use of the term "blum" raises expectations of finding only the Complainant's high-quality goods, but the associated website offers items from competitors. In essence, the Complainant submits that the Respondent lacks any rights or legitimate interests in the Disputed Domain Name.

(iii) The Disputed Domain Name was registered and is being used in bad faith.

First, the Complainant argues that the Respondent intentionally registered and is using the Disputed Domain Name with malicious intent, aiming to deceive Internet users into believing an affiliation with the Complainant. The Complainant submits that this is a deliberate effort to attract users to the Respondent's website for financial gain, by confusing with the Complainant's trademarks.

Second, the Complainant asserts that, when registering the Disputed Domain Name, the Respondent was aware of the Complainant's extensive business history in Viet Nam. In addition, the structure of the Disputed Domain Name implies a misleading association or endorsement by the Complainant, resulting in a misrepresentation, which is indicative of bad faith.

With the said arguments, the Complainant requests 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**

### **A. Procedural Issues**

#### **(I) Language of the Proceeding**

The Complaint was filed in English. However, the Registrar confirmed that the language of the Registration Agreement is Vietnamese.

As the Complaint was filed in English, the Center, in its notification dated October 6, 2023, invited the Complainant to submit either (i) satisfactory evidence of an agreement between the Complainant and the Respondent to the effect that the proceeding should be in English, or (ii) the Complaint translated into Vietnamese, or (iii) a substantiated request for English to be the language of the proceeding.

On October 9, 2023, the Complainant submitted to the Center its request that English be the language of the proceeding. The Respondent did not give any comment on this issue.

According to paragraph 11(a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

Similar to previous UDRP decisions, the Panel finds that the spirit of paragraph 11(a) is to ensure fairness in the selection of language by giving full consideration to the Parties' level of comfortability with each language, the expenses to be incurred, and the possibility of delay in the proceeding in the event translations are required and other relevant factors (see, *e.g.*, *Deutsche Messe AG v. Kim Hyungho*, WIPO Case No. [D2003-0679](#)).

In the present case, the Panel takes into account the circumstances of the proceeding, including, but not limited to:

(i) the Complainant, being an Austrian entity, seems to face challenges in communicating in Vietnamese, and therefore, if translation of documents into Vietnamese is required, it could cause significant delays in the proceeding and result in substantial expenses for the Complainant;

(ii) the English language is quite popular in Viet Nam, where the Respondent resides, and the website associated with the Disputed Domain Name contains English words like “website”, “hotline”, and “Copyright 2023 © All rights reserved”. These imply that the Respondent has knowledge of the English language and would be able to communicate in English; and

(iii) the Respondent did not object to English being the language of the proceeding and did not submit a Response in either English or Vietnamese.

Therefore, for easy comprehension of the Complainant (ultimately, the Party solely taking part in the proceeding) of the Panel’s decision without any necessity of translations, and in the interest of fairness to both Parties as well as the Panel’s obligation under paragraph 10(c) of the Rules, which provides that “the Panel shall ensure that the administrative proceeding takes place with due expedition”, the Panel hereby decides, under paragraph 11(a) of the Rules, that the language of the proceeding shall be English and shall render its decision in English.

## **(II) The Respondent’s Identity**

The Panel notes that the Complaint, filed on September 29, 2023, initially identified the Respondent as “Name not available”. Subsequently, on October 2, 2023, the Registrar transmitted by email to the Center, revealing the underlying registrant as “Dang Van Giap” in their verification response to the request of the Center. The Center sent an email communication to the Complainant on October 6, 2023, informing the Complainant of this information and inviting the Complainant to amend the Complaint. On October 9, 2023, the Complainant transmitted an email to the Center, confirming no substantive amendment but requesting the inclusion of the registrar-provided registrant information, namely “Dang Van Giap” as the underlying registrant to the Complaint. The Panel will treat “Dang Van Giap” as the Respondent for this proceeding.

## **(III) The Respondent’s Failure to Respond**

The Respondent’s failure to file a Response does not automatically result in a decision in favor of the Complainant (see, e.g., *Tradewind Media, LLC d/b/a Intopic Media v. Jayson Hahn*, WIPO Case No. [D2010-1413](#), and *M. Coarentin Benoit Thiercelin v. CyberDeal, Inc.*, WIPO Case No. [D2010-0941](#)). However, the Panel may draw appropriate inferences from the Respondent’s default.

## **B. Substantial Issues**

### **(I) Identical or Confusingly Similar**

The Complainant is required to establish the two following elements: (i) that it has trademark rights, and, if so, (ii) that the Disputed Domain Name is identical or confusingly similar to its trademark.

First, the Panel finds that the Complainant holds trademark rights for the BLUM trademarks. These trademarks are registered in various countries globally, including Viet Nam, where the Respondent resides. In addition, these registrations predate the registration of the Disputed Domain Name.

Second, the Disputed Domain Name incorporates the Complainant’s BLUM trademarks. The sole difference is the inclusion of the term “viet”, which is likely to be interpreted as the geographical descriptor of “Viet Nam”, the country where the Respondent resides. In this context, the Panel determines that the BLUM trademarks remain recognizable in the Disputed Domain Name, and the inclusion of the mentioned term

does not prevent confusing similarity for the purposes of the Policy (see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, "[WIPO Overview 3.0](#)").

Third, the Panel finds, similar to other UDRP panels, that the generic Top-Level Domain, in this case, ".com", is disregarded as it is a technical requirement (see section 1.11.1 of the [WIPO Overview 3.0](#)).

Based on the foregoing findings, the Panel finds that the Disputed Domain Name is confusingly similar to the BLUM trademarks, and paragraph 4(a)(i) of the Policy is established.

## **(II) . Rights or Legitimate Interests**

Paragraph 4(c) of the Policy lists circumstances, in particular, but without limitation, which, if found by the Panel to be proved, demonstrate the Respondent's rights or legitimate interests in the Disputed Domain Name for the purposes of paragraph 4(a)(ii) of the Policy, including:

- "(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

The Panel finds that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in the Disputed Domain Name. The Respondent did not reply to the Complainant's contentions and, therefore, did not refute them.

The consensus of previous UDRP decisions is that while the overall burden of proof in UDRP proceedings is on the complainant, once a *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating its rights or legitimate interests in the Disputed Domain Name (see section 2.1 of the [WIPO Overview 3.0](#)). In the present case, the Respondent failed to make such a demonstration.

Regarding paragraph 4(c)(i) of the Policy, the Panel, considering the facts presented by the Complainant, finds that the Respondent was not given any license, permission, or authorization to register or use the BLUM trademarks or the Disputed Domain Name. Further, there is no evidence that the Respondent holds any trademark rights, registered or unregistered, related to the BLUM trademarks or the Disputed Domain Name in any jurisdiction. Therefore, the Panel determines that the Respondent lacks trademark rights in the BLUM trademarks.

As mentioned in section 2.8 of [WIPO Overview 3.0](#), in the absence of prior agreement between the parties about the registration or use of a domain name incorporating the complainant's trademark, a reseller or distributor may establish rights or legitimate interests in a domain name through a *bona fide* offering of goods and services. This must align with specific criteria outlined in the decision *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#) ("Oki Data"), including:

- the respondent must actually be offering the goods or services at issue;
- the respondent must use the site to sell only the trademarked goods (otherwise, there is the possibility that the respondent is using the trademark in a domain name to bait consumers and then switch them to other goods);
- the site itself must accurately disclose the respondent's relationship with the trademark owner; and

- the respondent must not try to “corner the market” in all relevant domain names, thus depriving the trademark owner of the ability to reflect its own mark in a domain name.

In this particular case, the Complainant has demonstrated and provided evidence that the Disputed Domain Name was used to direct users to an online shop operated by the Respondent, where the logo “BlumViet” was prominently displayed. On such a website, the Panel finds the Respondent places no statement or disclaimer clarifying the actual relationship between the Complainant and the Respondent.

With such a view, the Panel finds that the use of the Disputed Domain Name does not meet the *Oki Data* criteria and, thus, does not constitute a *bona fide* use within paragraph 4(c)(i) of the Policy.

Regarding paragraph 4(c)(ii) of the Policy, the Panel notes that in the website footer, the Respondent calls itself “CÔNG TY TNHH BLUMVIET” (in English: BLUMVIET Company Limited). However, a search into the National Portal of Business Registration of Vietnam does not reveal any company registered in this name. Accordingly, the Panel finds no evidence indicating that the Respondent, whether as an individual, business, or other organization, has commonly been known by the Disputed Domain Name.

Regarding paragraph 4(c)(iii) of the Policy, it is quite clear to the Panel that the Respondent is doing business in selling kitchen cabinet accessories. Hence, the Panel finds no supporting evidence indicating that the Respondent is making a legitimate noncommercial or fair use of the Disputed Domain Name. Based on the Complainant’s assertions and evidence regarding the Respondent’s registration of the Disputed Domain Name, it is evident that the Respondent was fully aware of the BLUM trademarks and aimed to gain profit by riding on the goodwill and reputation of the Complainant.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests regarding the Disputed Domain Name, and the second element, paragraph 4(a)(ii) of the Policy, is established.

### **(III) Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy identifies, in particular, but without limitation, four circumstances which, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith, including:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location or of a product or service on your website or location.”

The above four circumstances are not exhaustive, and the Panel may find bad faith alternatively.

The Panel finds that the Complainant has put forth evidence that the Respondent has registered and used the Disputed Domain Name in bad faith. The Respondent did not reply to the Complainant’s contentions and, therefore, did not refute the Complainant’s contentions.

The Panel has considered the Complainant's claims and evidence regarding the Respondent's registration and use of the Disputed Domain Name. It is evident that the Complainant holds registered BLUM trademarks globally, including in Viet Nam, the country of the Respondent's residence. These trademark registrations significantly predate the registration of the Disputed Domain Name by the Respondent.

The Panel determines that the Disputed Domain Name incorporates the BLUM trademarks entirely, adding the geographical identifier "viet" at the end. Given the widespread use and registration of the BLUM trademarks by the Complainant, including in Viet Nam, the Panel finds it implausible that the Respondent registered the Disputed Domain Name coincidentally. Upon reviewing the website associated with the Disputed Domain Name, the Panel is of the view that the Respondent was well aware of the Complainant and its BLUM trademarks when registering the Disputed Domain Name. The Panel considers this registration to be an attempt by the Respondent to capitalize on the Complainant's goodwill (see section 3.2.1 of the [WIPO Overview 3.0](#)).

As of the date of this Decision, the Panel has accessed the Disputed Domain Name <blumviet.com> and observed that it still directs users to a website selling furniture fittings-related products, aligning directly with the Complainant's business. In addition to adopting the Complainant's BLUM trademarks as part of the Disputed Domain Name, the Respondent prominently displays, among others, the logo "BlumViet" on its website, which appears to suggest that the website is related to the Complainant's business in Viet Nam. Furthermore, the Respondent identifies itself as "BLUMVIET Company Limited" in the website footer, despite the absence of such an entity in reality.

The Panel takes the view that Internet users searching for the Complainant's products might mistakenly believe that the Respondent is either the Complainant or affiliated with them, despite no such association existing. This misleading conduct is a clear indication of bad faith within the meaning of paragraph 4(b)(iv) of the Policy, on the part of the Respondent.

Taking into account all of the above and the available record, the Panel finds that the Disputed Domain Name was registered and is being used by the Respondent in bad faith, and the third element under paragraph 4(a)(iii) of the Policy is 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 Name, <blumviet.com>, be transferred to the Complainant.

*/Pham Nghiem Xuan Bac/*

**Pham Nghiem Xuan Bac**

Sole Panelist

Date: November 29, 2023