

## **ADMINISTRATIVE PANEL DECISION**

ABG Hunter LLC v. Qiu Xiaofeng

Case No. D2023-4141

### **1. The Parties**

The Complainant is ABG Hunter LLC, United States of America (“United States”), represented by Authentic Brands Group LLC, United States.

The Respondent is Qiu Xiaofeng, China.

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

The disputed domain name <hunterbootsjapan.com> is registered with Paknic (Private) Limited (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 4, 2023. On October 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 7, 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 (Whois Agent) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 9, 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 the same day.

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 October 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 30, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 31, 2023.

The Center appointed Masato Dogauchi as the sole panelist in this matter on November 2, 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**

Whereas the Respondent has not submitted any formal response, the following information from the Complaint is found to be the factual background of this case.

Founded in 1856, the Complainant is a company producing footwear, outerwear, bags, and accessories. The Complainant's Wellington boot is renowned worldwide.

The Complainant has its HUNTER trademark as follows:

- The United States Registration for HUNTER, No. 6172175, registered on October 13, 2020;
- The United States Registration for HUNTER, No. 2740877, registered on July 29, 2003.

The disputed domain name was registered on December 5, 2022, and resolves to a website on which the Respondent uses the Complainant's HUNTER trademark and is purporting to sell same type of goods by using the HUNTER trademark.

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

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

The Complainant's contentions are divided into three parts as follows:

First, the Complainant contends that the disputed domain name is confusingly similar to its HUNTER trademark, since the disputed domain name incorporates the HUNTER trademark in its entirety followed by the descriptive terms "boots" and "Japan", and the generic suffix ".com." The Complainant asserts that, where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) should not prevent a finding of confusing similarity.

Second, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant confirms that the Respondent is not affiliated with the Complainant and is not an authorized dealer, distributor, or licensee of the Complainant, nor has it been otherwise allowed by the Complainant to make any use of its HUNTER trademark. Additionally, the Complainant asserts that the Respondent has not been commonly known by the disputed domain name.

Third, the Complainant contends that the disputed domain name was registered in bad faith. Given the fact that the Complainant has registered and used its HUNTER trademarks throughout the world for decades, the Complainant asserts that the Respondent was well aware of the Complainant's HUNTER trademark at the time of registration of the disputed domain name. The Complainant also contends that the disputed domain name is being used in bad faith. The fact that the disputed domain name resolves to a website on which the Respondent uses the Complainant's HUNTER trademarks and sells same type of goods by using the HUNTER trademark should be considered enough to show that the disputed domain name is being used in bad faith.

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

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

## 6. Discussion and Findings

In accordance with the Rules, paragraph 15(a), a panel shall decide a case on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable. Since the Respondent has not made any arguments in this case, the following decision is rendered on the basis of the Complainant's contentions and other evidence submitted by the Complainant.

In accordance with the Policy, paragraph 4(a), in order to qualify for a remedy, the Complainant must prove each of the following:

- (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 Panel finds that the Complainant has rights in the HUNTER trademark.

The first part of the disputed domain name is the term "hunter", which is same as the Complainant's trademark. Such inclusion is by itself enough to have the disputed domain name to be confusingly similar to the Complainant's HUNTER trademark.

The additional terms following to the Complainant's trademark, namely "boots" and "Japan", do not prevent a finding of confusing similarity between the disputed domain name and the Complainant's HUNTER trademark. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). The last part of the disputed domain name ".com" represents one of the generic Top-Level Domains, which is typically irrelevant in the determination of the confusing similarity between the disputed domain name and the HUNTER trademark.

Therefore, the Panel finds that the disputed domain name is confusingly similar to the trademark in which the Complainant has rights. The above requirement provided for in paragraph 4(a)(i) of the Policy is accordingly satisfied.

### B. Rights or Legitimate Interests

There is no evidence that shows the Respondent is commonly known by the name "Hunter" or "Hunter Boots Japan". In consideration of the facts that the Respondent is not affiliated with the Complainant or authorized or licensed to use the Complainant's HUNTER trademark, and that the disputed domain name resolves to a website for sale of same type of goods by using the HUNTER trademark without consent of the Complainant, and that there is no accurate and prominent disclaimer on the website regarding the relationship between the Complainant and the Respondent, neither a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use is found in this case. Since the Respondent did not reply to the Complainant's contentions in this proceeding, the Panel finds on the available record that the Complainant has established an un rebutted *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. See section 2.1 of the [WIPO Overview 3.0](#).

Further, the Panel finds that the composition of the disputed domain name is inherently misleading as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

The above requirement provided for in paragraph 4(a)(ii) of the Policy is accordingly satisfied.

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

In consideration of the history and size of the Complainant's business in footwear, outerwear, bags, and accessories, and the use of the HUNTER trademark on the website associated with the disputed domain name, it is highly unlikely that the Respondent could have been unaware of the Complainant's trademark at the time of registration of the disputed domain name on December 5, 2022. Therefore, it is found that the Respondent registered the disputed domain name in bad faith.

With regard to the requirement that the Respondent is using the disputed domain name in bad faith, the fact that the disputed domain name resolves to a website for sale of same type of goods by using the HUNTER trademark shows that the Respondent's intention to register and use of the disputed domain name is to create a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

Since the Respondent did not reply to the Complaint in this proceeding, the Panel finds that the disputed domain name has been registered in bad faith and is being used in bad faith. The above requirement provided for in paragraph 4(a)(iii) of the Policy is accordingly satisfied.

In conclusion, all three cumulative requirements as provided for in paragraph 4(a) of the Policy are determined to be satisfied.

### **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, <hunterbootsjapan.com>, be cancelled.

*/Masato Dogauchi/*

**Masato Dogauchi**

Sole Panelist

Date: November 16, 2023