

ADMINISTRATIVE PANEL DECISION

Hi-Tec Sports International Holdings B.V. v. Web Commerce
Communications Limited, Client Care
Case No. D2023-4801

1. The Parties

The Complainant is Hi-Tec Sports International Holdings B.V., Netherlands (Kingdom of the), represented by Chiever B.V., Netherlands (Kingdom of the).

The Respondent is Web Commerce Communications Limited, Client Care, Malaysia.

2. The Domain Names and Registrar

The disputed domain names <hi-tecargentina.com>, <hi-tecbootsaustralia.com>, <hi-tecbootscanada.com>, <hi-tecbootsnz.com>, <hi-tecbootsusa.com>, <hi-tecbot.com>, <hi-tecchile.com>, <hi-teccipo.com>, <hi-teccolombia.com>, <hi-tececuador.com>, <hi-tecespana.com>, <hi-tec-mexico.com>, <hi-tec-portugal.com>, <hi-tecschoenen.com>, <hitecschuh.com>, <hi-tecshoesindia.com>, <hi-tecshoesphilippines.com>, <hi-tecsk.com>, <hi-tecskor.com>, <hi-tec-uk.com>, and <tiendahi-tecperu.com> are 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 November 16, 2023. On November 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On November 21, 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 (Registry Registrant ID: Not Available) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 29, 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 December 7, 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 December 8, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 28, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 9, 2024.

The Center appointed Federica Togo as the sole panelist in this matter on January 22, 2024. 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

It results from the Complainant's undisputed allegations that it designs, manufactures, distributes and sells sportswear & outdoor under its trademark HI-TEC. It was founded in 1974 and became popular and successful in the many countries throughout the world in following years.

The Complainant is the registered owner of many trademarks worldwide for HI-TEC, in particular European Union Trade mark registration No. 000209304 HI-TEC registered on May 10, 2001 for goods in classes 18, 25 and 28; European Union Trade mark registration No. 012093324 HI-TEC (word), registered on February 27, 2014 for goods in classes 18 and 20.

It uses the domain name <hi-tec.com> for its official website.

The disputed domain names <hi-tec-mexico.com>, <hi-tec-portugal.com>, <hi-tecchile.com>, <hi-teccolombia.com>, <hi-tececuador.com>, <tiendahi-tecperu.com> were registered on August 11, 2023; the disputed domain names <hi-tecargentina.com>, <hi-tecbot.com>, <hi-teccipo.com>, <hi-tecsk.com>, <hi-tecskor.com> were registered on August 10, 2023; the disputed domain names <hi-tecespana.com>, <hi-tecschoenen.com> were registered on August 9, 2023; the disputed domain names <hi-tecsshoesindia.com>, <hi-tecsshoesphilippines.com> were registered on August 8, 2023; the disputed domain names <hi-tec-uk.com>, <hi-tecbootsaustralia.com>, <hi-tecbootscanada.com>, <hi-tecbootsnz.com>, <hi-tecbootsusa.com> were registered on August 4, 2023; the disputed domain name <hitecschuh.com> were registered on April 7, 2024.

Furthermore, the undisputed evidence provided by the Complainant proves that the disputed domain name resolved to websites allegedly selling the Complainant's products and reproducing without authorization the Complainant's trademark and logo.

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 the Complainant's trademark since they contain its trademark HI-TEC entirely.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain names. According to the Complainant, the Respondent has no connection or affiliation of any kind with the Complainant, nor has the Complainant ever granted the Respondent license or consent, express or implied, to use the HI-TEC trademark in any manner. The Respondent does not use the disputed domain names in connection with a bona fide offering of goods and services. The websites under the disputed domain names are imitations/copies of the authorized website under the domain name of the Complainant

where certainly no indication of a bona fide offering of goods nor services are present, since the websites offered under the disputed domain names, illegally uses client's trademark. The Respondent tried to mislead the public/customers (i.e., persons searching for HI-TEC), creating the impression that they are in contact with Complainant or buying products from the Complainant on its official or authorized website while it is not.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. According to the Complainant, it is implausible that the Respondent was unaware of the Complainant when it registered the disputed domain names since it is well-known in many countries. The fact that the Respondent has consciously imitated the Complainant's website and offered these imitations under the Respondent's disputed domain names confirm that the Respondent has willfully decided to infringe the Complainant's prior rights.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable". Paragraph 4(a) of the Policy requires a complainant to prove each of the following three elements in order to obtain an order that each disputed domain name be transferred or cancelled:

- (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.

The Panel will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

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 name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

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 entirety of the mark is reproduced within the disputed domain names (including the disputed domain name <hitecschuh.com>, where the hyphen is missing). Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

In addition, the Panel finds the dominant feature of the relevant mark is recognizable within the disputed domain name <hitecschuh.com>. Accordingly, the disputed domain name is also confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, "mexico", "portugal", "chile", "colombia", "ecuador", "tienda" and "peru", "argentina", "bot", "cipo", "sk", "skor", "espana", "schoenen", "shoes" and "india", "shoes" and "philippines", "uk", "boots" and "australia", "boots" and "canada", "boot" and "snz", "boots" and "usa", "schuh")

may bear on assessment of the second and third elements, the Panel finds the addition of such terms does 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.

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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available 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.

Moreover, the Panel notes that the disputed domain names contain the Complainant’s registered trademark and a geographic term/abbreviation (but <hi-tecbot.com>, <hi-teccipo.com>, <hi-tecskor.com>, <hi-tecschoenen.com> and <hitecschuh.com>). The nature of those disputed domain names carries a risk of implied affiliation: in fact, geographic terms are seen as tending to suggest sponsorship or endorsement by the trademark owner, see [WIPO Overview 3.0](#) at section 2.5.1.

Regarding the disputed domain names <hi-tecbot.com>, <hi-teccipo.com>, <hi-tecskor.com>, <hi-tecschoenen.com> and <hitecschuh.com>, the Panel notes that the disputed domain names are clearly constituted by the Complainant’s registered trademark and a term (corresponding to English “boots”, “shoe”, “shoes”, “shoes” and “shoe” respectively), which clearly refer to the Complainant’s core business, tending to suggest sponsorship or endorsement by the Complainant. This is also confirmed by the content of the websites to which the disputed domain names resolve, allegedly selling the Complainant’s products and reproducing without authorization the Complainant’s trademark and logo.

The composition of the disputed domain names directly targeting the Complainant’s field of activity enhances the false impression that the disputed domain names are somehow officially related to the Complainant and official websites promoting the Complainant’s business. Such composition of the disputed domain names cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. See section 2.5.1 of the [WIPO Overview 3.0](#). This is the case in the present proceeding.

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.

One of these circumstances is that the Respondent by using the disputed domain names, has intentionally attempted to attract, for commercial gain, Internet users to its websites or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location (paragraph 4(b)(iv) of the Policy). In the present case, the Panel notes that it results from the Complainant's documented allegations that the disputed domain names resolve to websites displaying the Complainant's trademark and logo, and purportedly offering for sale the Complainant's products. For the Panel, it is therefore evident that the Respondent positively knew the Complainant's mark. Consequently, and in the absence of any evidence to the contrary, the Panel is convinced that the Respondent also knew that the disputed domain names included the Complainant's trademark when it registered the disputed domain names.

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.

On this regard, the further circumstances surrounding the disputed domain names' registration and use confirm the findings that the Respondent has registered and is using the disputed domain names in bad faith:

- (i) the nature of the disputed domain names (incorporating the Complainant's mark plus the addition of a geographical term and/or term within the trademark owner's field of commerce);
- (ii) the content of the websites to which the disputed domain names direct, displaying the Complainant's trademark, logo, and purportedly offering for sale the Complainant's products;
- (iii) a clear absence of rights or legitimate interests coupled with no response for the Respondent's choice of the disputed domain names.

The Panel finds that the Complainant has established the third element 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 names <hi-tecargentina.com>, <hi-tecbootsaustralia.com>, <hi-tecbootscanada.com>, <hi-tecbootsnz.com>, <hi-tecbootsusa.com>, <hi-tecbot.com>, <hi-tecchile.com>, <hi-teccipo.com>, <hi-teccolombia.com>, <hi-tececuador.com>, <hi-tecespana.com>, <hi-tec-mexico.com>, <hi-tec-portugal.com>, <hi-tecschoenen.com>, <hitecschuh.com>, <hi-tecshoesindia.com>, <hi-tecshoesphilippines.com>, <hi-tecsk.com>, <hi-tecskor.com>, <hi-tec-uk.com>, and <tiendahi-tecperu.com>, be transferred to the Complainant.

/Federica Togo/

Federica Togo

Sole Panelist

Date: February 5, 2024