

ADMINISTRATIVE PANEL DECISION

Julius Blum GmbH v. Gri İnternet Teknolojileri Anonim Şirketi and NURETTİN YILDIZ

Case No. D2024-0183

1. The Parties

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

The Respondent is Gri İnternet Teknolojileri Anonim Şirketi, Türkiye, and NURETTİN YILDIZ, Türkiye.

2. The Domain Name and Registrar

The disputed domain name <blumshop.com> is registered with ODTÜ Geliştirme Vakfı Bilgi Teknolojileri Sanayi Ve Ticaret Anonim Şirketi (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 17, 2024. On January 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 18, 2024, 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 (Name not available) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 18, 2024, 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 January 19, 2024.

On January 18, 2024, the Center informed the parties in Turkish and English, that the language of the registration agreement for the disputed domain name is Turkish. On January 19, 2024, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 January 30, 2024 both in English and in Turkish. In accordance with the Rules, paragraph 5, the due date for Response was February 19, 2024. The Respondent sent email communications on January 29, 2024, January 30, 2024, and February 21, 2024, to the Center.

The Center appointed Kaya Köklü as the sole panelist in this matter on February 23, 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

The Complainant is a manufacturer of furniture fittings with its registered seat in Austria. It markets its products internationally since many years, including in Türkiye.

The Complainant is the owner of the BLUM trademark, which is registered in many jurisdictions. Among others, the Complainant is the owner of the International Trademark Registration No. 996626, registered on November 18, 2008, for BLUM, as well as the Turkish Trademark Registration No. 194716, registered on May 26, 1999, for BLUM, both covering protection for products in various classes (Annex 5 to the Complaint).

The Complainant owns and operates its main website at “www.blum.com”, which is also available in Turkish language at “www.blum.com/tr/tr”.

The Respondent is reportedly located in Türkiye.

The disputed domain name was registered on January 26, 2009.

Based on the provided information by the Respondent, the disputed domain name was first actively used in 2024 and resolved to a website promoting products of the Complainant by using images of the Complainant’s products.

An independent search by the Panel at “www.archive.org” revealed by saved captures of the website associated to the disputed domain name that at least on October 2, 2016, the disputed domain name resolved to an online shop offering various household products with brands different to the Complainant’s BLUM trademark. At least as of July 29, 2019, the disputed domain name was offered for sale by indicating an estimated value of USD 985 respectively of USD 1,900 on March 13, 2023.

At the time of the decision, the disputed domain name resolves to a landing page with a notice that the website is currently in “maintenance mode”.

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 name.

Particularly, the Complainant contends that it never granted a license or in any other way authorized the Respondent to register or use its BLUM trademark within the disputed domain name.

B. Respondent

On January 18, and 29, 2024, the reseller of the Registrar sent email communications to the Center submitting that the disputed domain name belongs to one of their clients, NURETTİN YILDIZ, and that they would forward the case related documents to their client.

However, the Center received virtually identical email communications on January 30, 2024, and February 21, 2024 from NURETTİN YILDIZ (herein after referred to as “the Respondent”).

In its email communications, the Respondent states that in 2024, he used the disputed domain name to promote the products of the Complainant in Türkiye and asserts to have sold these products accordingly, however without providing any supporting documentation.

The Respondent argues that he had “no intention that could harm” the Complainant.

The Respondent further states that he might use the disputed domain name also for different “product promotions and products”, since “blum” shall have the meaning of “flower” in German language.

6. Discussion and Findings

6.1. Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Turkish. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the Respondent appears to be capable of reading and understanding the English language.

The Respondent did not make any specific submissions with respect to the language of the proceeding and did not comment on the Complainant’s request for the language of the proceeding be English, even though communicated by the Center in English and Turkish. In addition, the Respondent was given the opportunity to respond to the Complaint in Turkish, but the Respondent provided his above-mentioned email communications to the Center in English language.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties’ ability to understand and use the proposed language, time and costs (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.5.1).

Having considered all the matters above, the Panel believes that the Respondent will not be prejudiced by a decision being rendered in English and determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2. Substantive Issues

According to paragraphs 14 and 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable. In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark 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.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if a respondent has not substantively replied to a complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. [WIPO Overview 3.0](#), section 4.3.

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views captured therein.

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 3.0](#), section 1.7.

The Complainant has shown rights in respect of the BLUM trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the BLUM mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the BLUM mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here "shop", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name 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 name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

There is in particular no indication in the case file that the Respondent is commonly known by the disputed domain name, nor that there are any circumstances or activities that would establish the Respondent's rights or legitimate interests therein, e.g., as a legitimate reseller of the Complainant's products. In contrast to the allegations raised by the Respondent, an independent search by the Panel at "www.archive.org" revealed by various saved screen captures that since its registration, the disputed domain name resolved to various websites, partly offering household products with third parties' brands or offering the disputed domain name for sale to indicated price expectations which apparently exceed the Respondent's out-of-pocket expenses. The Respondent further failed to provide any evidence or substantiation for its allegation that it has or is using the disputed domain name as an independent reseller of the Complainant's products in compliance with the principles set out under *Ok! Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#).

In addition, the Respondent's statement on a potentially alternative future use of the disputed domain name for "flowers" is not convincing to the Panel. The Panel, who is also familiar with the German language, notes that "blum" is a term with no meaning in the German language. It particularly does not mean "flower" in German and hence, can per se not be used in a purely descriptive way as it has been asserted by the Respondent.

Furthermore, the Panel notes that the nature of the disputed domain name, which comprises the entirety of the Complainant's BLUM trademark (plus the term "shop") and effectively impersonates or at least suggests sponsorship or endorsement by the Complainant, carries a high risk of implied affiliation or association with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

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.

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.

In the present case, the Panel notes that the Respondent, as he confirmed in his email communications to the Center, had the Complainant and its BLUM trademark in mind when registering the disputed domain name. Given the nature of the disputed domain name and its confusing similarity to the Complainant's BLUM trademark, the Panel is convinced that the Respondent has deliberately chosen the disputed domain name to target and mislead Internet users.

With respect to the use of the disputed domain name in bad faith, and as already indicated above, the Panel notes once again that his independent search at "www.archive.org" revealed by various website captures associated to the disputed domain name that at least on October 2, 2016, the disputed domain name resolved to an online shop offering various household products with brands different to the Complainant's BLUM trademark. Also, at least as of July 29, 2019, the disputed domain name was offered for sale by indicating an estimated value of USD 985 respectively of USD 1,900 on March 13, 2023. These findings are in view of the Panel sufficient indications of bad faith use by the Respondent.

Bearing also in mind the inherently misleading nature of the disputed domain name, the Panel concludes that the Respondent intentionally tried to attract, for illegitimate commercial gain, Internet users by creating a likelihood of confusion with the Complainant.

The Respondent's allegation that he promoted and sold products of the Complainant as an independent dealer, remains in view of the Panel unfounded and a self-serving assertion lacking in credibility. Also, there is no evidence or even substantiation provided by the Respondent that any such asserted use was in compliance with the principles under *Oki Data Americas, Inc. v. ASD, Inc.*, supra.

The fact that the disputed domain name currently resolves to a landing page only, does not prevent a finding of bad faith – it may even be taken as further indication that the Respondent is trying to “hide his tracks”.

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 name, <blumshop.com>, be transferred to the Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: March 8, 2024