

ADMINISTRATIVE PANEL DECISION

Globe Electric Company, Inc. v. hui zhang
Case No. D2024-0290

1. The Parties

The Complainant is Globe Electric Company, Inc., Canada, represented by Greenberg Traurig, LLP, United States of America.

The Respondent is hui zhang, China.

2. The Domain Name and Registrar

The disputed domain name <globepeep.com> is registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on January 23, 2024. On January 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 25, 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 (Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 25, 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 amended Complaint in English on January 26, 2024.

On January 25, 2024, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On January 26, 2024, the Complainant requested English to be the language of the proceeding.

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 in English and Chinese of the Complaint, and the proceedings commenced on January 31, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 21, 2024.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on February 27, 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 company headquartered in Canada and is a wholesaler and distributor of lighting products, smart home products, home security products, and electrical accessories, and other related products. Founded in 1932, the Complainant has become an industry leader in the lighting and electrical industries focused on social, environmental, and economical sustainability.

The Complainant owns an international portfolio of registered trademarks for GLOBE (logo mark) and other related trademarks, including but not limited to United States Trademark Registration number 3612764 for the GLOBE logo, registered on April 28, 2009, and United States Trademark Registration number 3974930, for the GLOBE logo, registered on June 7, 2011. In addition to these trademarks the Complainant has also obtained trademark registrations for its GLOBE mark in several other jurisdictions and countries. The Complainant also has a strong online presence and owns and uses a portfolio of prior domain names including the domain name <globe-electric.com>.

The disputed domain name was registered by the Respondent on November 10, 2022, and pointed to a website in English which impersonated the Complainant, prominently featured the Complainant's logo trademarks, adopted the same look and feel of the Complainant's website, offered for sale a number of products which seemed to be the GLOBE branded or compete with the Complainant's products, and invited visitors to create accounts for purchasing such products. However, the Panel notes that on the date of this Decision, the disputed domain name points to an inactive website.

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.

Notably, the Complainant contends that it is the owner of a number of registered trademarks consisting of "Globe" (word marks and logo marks) and that it has a strong reputation for the products under this trademark. The Complainant asserts that the disputed domain name is confusingly similar to the abovementioned trademarks since it incorporates such marks in their entirety, adding only the descriptive word "peep". The Complainant essentially contends that the Respondent has linked the disputed domain name to an imposter website and may be running a fraudulent scheme via such website (due to the fact that Internet users are requested to create accounts), and that the Respondent is impersonating the Complainant for undue commercial gain. The Complainant alleges that the Respondent has no rights or legitimate interests in the disputed domain name, and that such use made of the disputed domain name does not confer any rights or legitimate interests and that it proves that the Respondent registered and is using it in bad faith.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. 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 disputed domain name contains English words in Latin script, rather than Chinese script, that it contains the Complainant's GLOBE mark, which consists of English letters, and that the disputed domain name resolved to a website that impersonated the Complainant's website and contained only English words and characters, which, according to the Complainant, further indicates the Respondent's familiarity with the English language. The Complainant also submits that Chinese as the language of the proceeding would unnecessarily burden the Complainant and unnecessarily delay the proceeding.

The Respondent did not make any submissions with respect to the language of the proceeding.

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 (see 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 determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2 Substantive Issues

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.

Based on the available record, the Panel finds 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 Panel finds that the Complainant's marks for GLOBE are clearly recognizable within the disputed domain name, since the disputed domain name fully incorporates these marks. Accordingly, the disputed domain name is confusingly similar to these marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of another term, here "peep", 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.

Based on the available record, 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 domain names 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 any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Moreover, upon review of the facts and evidence, the Panel notes that the Respondent has not provided any evidence of the use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Instead, upon review of the facts and the evidence submitted in this proceeding, the Panel notes that the disputed domain name directed to an active website which showed a clear intent on the part of the Respondent to misleadingly pass it off as the Complainant’s website, for commercial gain. In fact, said website prominently displayed the Complainant’s trademarks and adopted the same look and feel as the Complainant’s website and seemingly offered the GLOBE branded or competing products, without prominently and accurately disclosing the (lack of) the relationship between the Parties, thereby misleading consumers into believing that the Respondent is at least licensed by, or affiliated with the Complainant and/or its trademarks. Even if the products on offer were legitimate products, it is clear to the Panel from the foregoing elements that, in such circumstances, the Respondent was not acting as a good faith provider of goods or services under the disputed domain name, see also *Ok! Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#). The Panel also finds that there are no other circumstances apparently conferring any rights or legitimate interests on the Respondent. Given the abovementioned elements, the Panel concludes that the Respondent’s use does not constitute a bona fide offering of goods or services, nor a legitimate noncommercial or fair use of the disputed domain name.

However, the Panel notes that on the date of this Decision, the disputed domain name directs to an inactive or blank webpage. In this regard, the Panel finds that holding a domain name passively, without making any use of it, also does not confer any rights or legitimate interests in the disputed domain name on the Respondent (see in this regard earlier UDRP decisions such as *Bollere SE v. 赵竹飞 (Zhao Zhu Fei)*, WIPO Case No. [D2020-0691](#); and *Vente-Privee.Com and Vente-Privee.com IP S.à.r.l. v. 崔郡 (jun cui)*, WIPO Case No. [D2021-1685](#)).

Finally, the Panel also finds that the nature of the disputed domain name, incorporating the Complainant’s trademarks in their entirety and containing the term “peep”, carries a risk of implied affiliation and cannot constitute fair use, as it effectively impersonates the Complainant and its products or suggests sponsorship or endorsement by the Complainant (see [WIPO Overview 3.0](#), section 2.5.1).

Based on the available record, 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.

Given the intensive use and strong reputation of the Complainant's prior registered trademarks, the Panel finds that the subsequent registration of the disputed domain name, which is confusingly similar to such marks, clearly and consciously targeted the Complainant's prior registered trademarks. The Panel therefore deducts from the Respondent's efforts to consciously target the Complainant's reputable prior trademarks that the Respondent knew of the existence of the Complainant's trademarks at the time of registering the disputed domain name. This finding is confirmed by the fact that the website linked to the disputed domain name was used to offer for sale competing or unauthorized products by reference to the Complainant's trademark (which was prominently displayed in the banner of the website), since this proves that the Respondent was fully aware of the Complainant's business and its prior trademarks. In the Panel's view, the foregoing elements clearly indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain name in bad faith.

As to use of the disputed domain name in bad faith, the Complainant provides evidence that the disputed domain name directed to an active website which showed a clear intent on the part of the Respondent to misleadingly pass it off as the Complainant's website, by prominently featuring the Complainant's logo trademarks, adopting the same look and feel of the Complainant's website, offering for sale a number of products which seem to be the GLOBE branded or compete with the Complainant's products, and inviting visitors to create accounts for purchasing, which, furthermore, presented a risk of fraudulent transactions and theft of personal information. The Panel concludes from these facts that the Respondent is intentionally attracting Internet users for commercial gain to such website, by creating consumer confusion between the website associated with the disputed domain name and the Complainant's trademarks. This constitutes direct evidence of the Respondent's bad faith under paragraph 4(b)(iv) of the Policy. The Panel therefore finds that it has been demonstrated that the Respondent has used and is using the disputed domain name in bad faith.

Furthermore, the Panel notes that on the date of this Decision, the disputed domain name directs to an inactive or blank website. Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panels will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and longstanding use of the Complainant's trademarks, the composition of the disputed domain name, and the provision of the incomplete and false contact details by the Respondent when registering the disputed domain name (the Written Notice was not able to be delivered by the courier service), and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

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 <globepeep.com> be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: March 6, 2024