

ADMINISTRATIVE PANEL DECISION

Cache-Cache v. Web Commerce Communications Limited, Client Care
Case No. D2024-0299

1. The Parties

The Complainant is Cache-Cache, France, represented by MIIP MADE IN IP, France.

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

2. The Domain Name and Registrar

The disputed domain name <cacheandcacherobe.com> is 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 January 24, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 29, 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 on January 30, 2024.

The Center verified that the Complaint together with 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 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 Zoltán Takács as the sole panelist in this matter on March 5, 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 French women's clothing manufacturer that is selling its CACHE CACHE branded fashion items in France and internationally, both in physical stores and online.

The Complainant is among others owner of the International Trademark Registration No. 966411 for the word mark CACHE CACHE registered since October 16, 2007 for variety of clothing articles.

The Complainant owns the domain name <cache-cache.fr>, which was registered on August 23, 1998 and resolves to its principal website.

The disputed domain name was registered on December 19, 2023, and has been resolving a website that copies content from the Complainant's official website, including its trademark, signature logotype and imagery and purports to sell the Complainant's products.

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

- the disputed domain name, which fully incorporates its CACHE CACHE trademark separated by the conjunction "and" is confusingly similar to it because the addition of the term "robe" (meaning "dress" in French) to the trademark in the disputed domain name is not sufficient to distinguish the disputed domain name from the trademark;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name since it is unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii), or (iii) of the Policy;
- the use of its trademark, logo and imagery on the website at the disputed domain name shows the Respondent's intent to deceive consumers into believing that it is a website operated by or at least affiliated with the Complainant.

The Complainant requests that the disputed domain name be transferred from the Respondent to the Complainant.

B. Respondent

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

6. Discussion and Findings

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) the domain name has been registered and is being used in bad faith.

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 and is recognizable within the disputed domain name. Accordingly, the disputed domain name is 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 the conjunction "and" and the term "robe" 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 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 any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Respondent has not only failed to respond and disclose its relationship (or lack of thereof) with an accurate and prominent disclaimer with the Complainant but is actively impersonating the Complainant. As shown by the Complainant, the Respondent has been using the disputed domain name to confuse Internet users presumably looking for the Complainant through redirecting them to its own website, which has been extensively displaying the Complainant's trademark, its signature logotype and imagery without any authorization, purportedly offering for sale the Complainant's products. Panels have held that the use of a

domain name for illegal activity, here impersonation/passing off as applicable to this case can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

The Panel finds that the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy pursuant to paragraph 4(b)(iv) of the Policy.

In the present case, the Panel notes that the Respondent reproduced the Complainant's distinctive trademark in the disputed domain name and has been using the Complainant's signature logotype and imagery on the website at the disputed domain name. Thus, in view of the Panel the Respondent must have had actual knowledge of the Complainant's business and trademark at the time of registration of the disputed domain name which it registered in order to target the Complainant's trademark. [WIPO Overview 3.0](#), sections 3.2.1 and 3.2.2.

As mentioned above, the Respondent has been using the disputed domain name to direct Internet traffic to its website to gain illegitimate profit through impersonation or false association. Panels have held that use of domain name for illegal activity, such as impersonation/passing off constitutes bad faith. [WIPO Overview 3.0](#), section 3.1.4.

Finally, the Panel notes that the Respondent is a renown cybersquatter and has previously been involved as Respondent in various UDRP cases in which transfer has been found. The Panel considers that this pattern of abusive conduct constitutes further evidence of bad faith.

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 <cacheandcacherobe.com> be transferred to the Complainant.

/Zoltán Takács/

Zoltán Takács

Sole Panelist

Date: March 19, 2024