

ADMINISTRATIVE PANEL DECISION

Madame Juliette Mallet chez Coucou Suzette v. Robert Baden
Case No. D2024-0363

1. The Parties

Complainant is Madame Juliette Mallet chez Coucou Suzette, France, represented by Lynde & Associés, France.

Respondent is Robert Baden, United States of America.

2. The Domain Name and Registrar

The disputed domain name <coucou-suzette.com> (the “Domain Name”) is registered with CNOBIN Information Technology Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 26, 2024. On January 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 30, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on January 30, 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 31, 2024.

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 Respondent of the Complaint, and the proceedings commenced on February 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 28, 2024.

The Center appointed Marina Perraki as the sole panelist in this matter on March 15, 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

Complainant is a French individual who, under the COUCOU SUZETTE business and brand, manufactures and sells funny and coloured accessories (hair claws and clips, pins, socks, clothes, clothing accessories, rings and jewels) since 2016 in France, where it enjoys certain reputation, and worldwide.

Complainant owns trademark registrations for COUCOU SUZETTE in several countries, including:

- the French trademark registration No. 4033980, COUCOU SUZETTE (word), registered on September 20, 2013 for goods in international classes 14, 16 and 25; and
- the International trademark registration No. 1705781, COUCOU SUZETTE (word), registered on October 28, 2022 for goods in international classes 14, 16, 20, 25, 26 and 28.

Complainant also owns domain name registrations incorporating COUCOU SUZETTE, including <coucousuzette.com>, registered on October 12, 2013, under which the main website of Complainant is operated and <coucousuzette.fr> registered on August 22, 2017 redirecting to the official website of Complainant.

The Domain Name was registered on August 11, 2023 and leads to a website (the Website), which mimics that of Complainant, prominently displaying Complainant's trademarks and logos and incorporating pictures of Complainant's products, and parts of Complainant's website, purportedly offering for sale and selling accessories, hair clips and socks, which per Complaint are possible counterfeits. Complainant also demonstrated that an Internet user made an order on the Website, thinking it was Complainant's official website and never received the ordered products. The payment receipt indicated that the beneficiary of the payment was a company in Hong Kong, China.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) 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.

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 Domain Name. Accordingly, the Domain Name is confusingly similar to the mark for the purposes of the Policy, with the sole difference being the addition of a hyphen.

The generic Top-Level Domain ("gTLD") ".com" is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); and *Hay & Robertson International Licensing AG v. C. J. Lovik*, WIPO Case No. [D2002-0122](#)). [WIPO Overview 3.0](#), section 1.11.1.

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 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Domain Name. Respondent has not rebutted Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name such as those enumerated in the Policy or otherwise.

Prior to the notice of the dispute, Respondent did not demonstrate any use of the Domain Name or a trademark corresponding to the Domain Name in connection with a bona fide offering of goods or services.

On the contrary, as Complainant demonstrated, the Domain Name resolves to the Website, which features Complainant's trademark and suggests falsely that it is that of Complainant or an affiliated entity or an authorized partner of Complainant.

Per Complaint, Respondent is not an affiliated entity or an authorised distributor or reseller of Complainant and no agreement, express or otherwise, exists allowing the use of Complainant's trademarks on the Website and the use of the Domain Name by Respondent.

Furthermore, the use of a domain name which intentionally trades on the fame of another and suggests affiliation with the trademark owner cannot constitute a bona fide offering of goods or services (*Madonna Ciccone, p/k/a Madonna v. Dan Parisi and "Madonna.com"*, WIPO Case No. [D2000-0847](#); *AB Electrolux v. Handi Sofian, Service Electrolux Lampung*, WIPO Case No. [D2016-2416](#); [WIPO Overview 3.0](#), section 2.5).

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 concludes that Respondent has registered and used the Domain Name in bad faith. Because the COUCOU SUZETTE mark had been used and registered at the time of the Domain Name registration by Respondent, the Panel finds it more likely than not that Respondent had Complainant's mark in mind when registering the Domain Name (*Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#); *Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net*, WIPO Case No. [D2000-0226](#)). This also takes into account the content of the Website which mimics that of Complainant.

As regards bad faith use of the Domain Name, Complainant has demonstrated that the Domain Name is used to resolve to the Website, which prominently displays Complainant's registered trademarks and a copyright notice, thereby giving the false impression that it is operated by Complainant, or a company affiliated to Complainant or an authorised partner of Complainant. While the Panel notes Complainant's claim that the goods sold through the Website are possibly counterfeits, it is not necessary for the Panel to make any ultimate determination as to the nature of the goods, as the evidence clearly shows Respondent has attempted to pass itself off as Complainant. The Domain Name is therefore used to intentionally create a likelihood of confusion with Complainant's trademark and business as to the source, sponsorship, affiliation, or endorsement of the website it resolves to. This can be used in support of bad faith registration and use (*Booking.com BV v. Chen Guo Long*, WIPO Case No. [D2017-0311](#); *Ebel International Limited v. Alan Brashear*, WIPO Case No. [D2017-0001](#); *Walgreen Co. v. Muhammad Azeem / Wang Zheng, Nicenic International Group Co., Limited*, WIPO Case No. [D2016-1607](#); *Oculus VR, LLC v. Sean Lin*, WIPO Case No. [DCO2016-0034](#); and [WIPO Overview 3.0](#), section 3.1.4).

Last, the Panel takes into account the fact that Complainant demonstrated that in at least one instance, an Internet user placing an order on the Website, thinking it was Complainant's official website, never received the ordered goods; while on the receipt the details of a company in Hong Kong, China, appeared.

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 <coucou-suzette.com> be transferred to Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: March 31, 2024