

ADMINISTRATIVE PANEL DECISION

Pointe Noir Pty Ltd, J. Bloch Pty. Ltd., Bloch International Management Pty. Ltd. v. Client Care, Web Commerce Communications Limited
Case No. D2024-0405

1. The Parties

The Complainant is Pointe Noir Pty Ltd (“Pointe Noir”), J. Bloch Pty. Ltd. (“J. Bloch”), Bloch International Management Pty. Ltd., Australia (“Bloch International”), represented by Venable, LLP, United States of America (“USA”).

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

2. The Domain Names and Registrar

The disputed domain names <blochbelgie.com>, <bloch-canada.com>, <blochdanmark.com>, <blochdeutschland.com>, <blochespana.com>, <blochfrance.com>, <blochgreece.com>, <blochireland.com>, <blochitalia.com>, <blochnederland.com>, <blochpolska.com>, <blochportugal.com>, <blochromania.com>, <blochslovensko.com>, <blochuk.com>, <blochusa.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 January 29, 2024. On January 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On January 31, 2024, 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 (Unknown Registrant) and contact information in the Complaint.

The Center sent an email communication to the Complainant on February 1, 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 February 1, 2024.

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 February 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 22, 2024. The Respondent did not submit any formal response. On February 29, 2024, the Center notified the Parties that it would proceed to panel appointment.

The Center appointed Clive Duncan Thorne as the sole panelist in this matter on March 11, 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 Complainants are related companies having common interests globally in the trade marks BLOCH. They are the owners and users of the brand and trade marks BLOCH worldwide.

The brand BLOCH was first used by the Complainants or their successors in title in Australia in 1932. It is now the world's leading brand of technical dance footwear and apparel. The current website for the BLOCH brand "www.us.blochworld.com" has been owned and operated by Pointe Noir since April 1998. J Bloch has owned and operated its website "www.bloch.com.au" collectively with "www.us.blochworld.com" since at least 2008.

BLOCH branded pointe shoes sold on the websites are handmade and used by leading dance companies throughout the world including the Royal Ballet, the American Ballet Theatre, the Bolshoi Ballet, and the Australian Ballet. The shoes have also been worn by some of the world's current and past elite ballerinas.

At Annex 5 to the Complaint the Complainant exhibits extracts from the BLOCH website from which it can be seen that it prominently displays the BLOCH trade marks in connection with the Complainant's footwear and apparel.

Pointe Noir owns the following USA trade marks;

BLOCH	Class 25	No. 1898161	registered on June 6, 1995
BLOCH	Class 35	No. 3101147	registered on June 6, 2006
BLOCH	Classes 18 and 25	No. 6464115	registered on August 24, 2021

Copies of the USA registration certificates are exhibited at Annex 6 to the Complaint.

Amongst other trade mark registrations Pointe Noir owns trade mark registrations for the trade mark BLOCH in the United Kingdom and for BLOCH and BLOCHWORLD in the European Union. Copies of these certificates of registration are exhibited at Annex 7 and Annex 9 to the Complaint.

Bloch International also owns trade mark registrations for the trade mark BLOCH in the United Kingdom and the European Union. Copies of the certificates of registration for these marks are exhibited at Annexes 8 and 10 to the Complaint.

Bloch International owns the following trade mark registration in Canada;

BLOCH	Class 25	No. TMA465046	registered on October 25, 1996
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A copy of the certificate of registration for this trade mark is exhibited at Annex 11 to the Complaint.

The trade mark registrations relied upon by the Complainant predate the dates of registration of the disputed domain names which were all registered on July 20, 2023.

According to the Complainant the Respondent uses the disputed domain names to promote infringing BLOCH branded products such as ballet point shoes by claiming that they were also founded in 1932, like the authentic BLOCH brand and using an identical font to that used for the Complainant's website. Screenshots from the Respondent's websites connected with the disputed domain names and showing this are depicted in the Complaint and also included in Annex 14 to the Complaint.

Evidence shows a price difference whereby "BLOCH" Eurostretch pointe shoes as depicted in the websites at the disputed domain names are offered at a price of GBP 60.42 (roughly USD 76.00) whilst the Complainant's Bloch Eurostretch pointe shoes retail for a price of GBP 109.00 (roughly USD 140.00). Seven of the disputed domain names; <bloch-canada.com>, <blochdanmark.com>, <blochespana.com>, <blochitalia.com>, <blochpolska.com.>, <blochportugal.com>, and <blochslovenko.com> appear to be currently inactive and/or inaccessible. However, other disputed domain names are still advertising to the public as if they were affiliated with the Complainant. This can be seen from Annex 16 to the Complaint, which shows Google searches with some of the disputed domain names in the list of results for searches that included BLOCH together with the corresponding geographic terms.

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;

- i. The disputed domain names are confusingly similar to the trade mark BLOCH in which the Complainant owns registered trade mark rights;
- ii. There is no evidence that the Respondent uses the disputed domain names in connection with a bona fide offering of goods but rather for phishing purposes. This in the absence of a Response is prima facie evidence of the Respondent having no rights or legitimate interests in the disputed domain names; Notably, the Complainant asserts that if consumers receive products purported to be BLOCH products and ordered from the Respondent's websites connected with the disputed domain names such products are highly likely to be counterfeit and unauthorized by the Complainant.
- iii. The Respondent registered the disputed domain names having constructive notice of the Complainant's trade mark rights and is using the disputed domain names to purposefully disrupt the Complainant's business.

B. Respondent

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

6. Discussion and Findings

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 trade mark 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 trade mark 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. Accordingly, the disputed domain names are 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 geographic names of or references to countries, 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.

Examples include; <bloch-canada.com>, <blochfrance.com>, and <blochusa.com> where the mark BLOCH is reproduced in its entirety together with the name of a country; in these examples, Canada, France, and USA.

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.

In reaching this conclusion the Panel finds, in the absence of a Response, that there is no evidence of any rights that the Respondent has to use the trade mark BLOCH. The Complainant has confirmed that it has not given any permission to the Respondent to use the trade mark BLOCH. There is no evidence that the Respondent is commonly known by the domain names.

Panels have held that the use of a domain name for illegal activity, claimed as applicable to this case: sale of counterfeit goods, phishing, unauthorized account access/hacking, impersonation/passing off, or other types of fraud can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

In this case the Complainant has produced evidence, set out in Annex 14 to the Complaint, that the disputed domain names are and can be used to access a website upon which infringing BLOCH branded products such as ballet shoes are offered for sale. This also enables the Respondent to use the disputed domain names for the purpose of phishing and fraudulently obtaining personal identifying information such as credit card and address details from unsuspecting customers.

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.

In the present case, the Panel notes that the Respondent, as a result of the distinctive nature and longstanding use internationally by the Complainant of the trade mark BLOCH, is likely to have had knowledge of the trade mark. In the absence of contrary evidence this indicates that the Respondent acted in opportunistic bad faith in registering the disputed domain names.

It is also apparent from Annex 14 of the Complaint that the Respondent is using the disputed domain names to purposefully disrupt the business of the Complainant by using them to access its website offering infringing products for sale.

The Complainant refers to two additional domain names; <blochaustralia.com> and <blochnewzealand.com>, the subject of an earlier UDRP complaint in which that panel (*Pointe Noir Pty Ltd and J. Bloch Pty. Ltd. v. Client Care, Web Commerce Communications Limited*, WIPO Case No. [D2023-4009](#)) found on the basis of similar evidence that those domain names had been registered by the same Respondent as in this present Complaint in bad faith.

The Panel finds that the disputed domain names were registered and are being used by the Respondent as part of a pattern of bad faith conduct, and that the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's marks within section 4(b) of the Policy.

Panels have held that the use of a domain name for illegal activity here, claimed as applicable to this case: sale of counterfeit goods, phishing, unauthorized account access/hacking, impersonation/passing off, or other types of fraud constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitutes 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 names; <blochbelgie.com>, <bloch-canada.com>, <blochdanmark.com>, <blochdeutschland.com>, <blochespana.com>, <blochfrance.com>, <blochgreece.com>, <blochireland.com>, <blochitalia.com>, <blochnederland.com>, <blochpolska.com>, <blochportugal.com>, <blochromania.com>, <blochslovensko.com>, <blochuk.com>, <blochusa.com> be transferred to the Complainant.

/Clive Duncan Thorne/

Clive Duncan Thorne

Sole Panelist

Date: March 25, 2024