

## **ADMINISTRATIVE PANEL DECISION**

Baccarat Far East Limited v. Shi Jinyin  
Case No. D2024-1284

### **1. The Parties**

The Complainant is Baccarat Far East Limited, Hong Kong, China, represented by Marq Vision Inc., Republic of Korea.

The Respondent is Shi Jinyin, China.

### **2. The Domain Name and Registrar**

The disputed domain name <baccaratshopus.com> is registered with Name.com, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 15, 2024. On March 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 26, 2024, the Registrar transmitted by email to the Center its verification response disclosing the 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 March 28, 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 April 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 April 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 23, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 25, 2024.

The Center appointed Jacob Changjie Chen as the sole panelist in this matter on May 6, 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 designs, manufactures, and sells dining ware, home decor, lighting, and jewelry under the registered trademarks BACCARAT, encompassing both text and logo, in France and worldwide.

The Complainant holds numerous registrations of BACCARAT trademark, including No.1378003 and No.1387196, Japanese trademark, respectively registered on April 27, 1979 and August 30, 1979; No. 433950, International trademark, registered on December 2 1977; No. 162228, Chinese trademark, registered on September 15, 1982; No. T9107107E, Singapore trademark, registered on February 18, 1991.

The Complainant also owns domain name incorporating its BACCARAT trademark, <baccarat.com>, registered on June 29, 1995, and has been resolving the domain name as its official website.

According to the information disclosed by the Registrar, the Respondent is Shi Jinyin, located in China.

The disputed domain name was registered on March 9, 2023, and resolves to a website boldly displaying the Complainant's BACCARAT trademark and purportedly offering products relating to the Complainant.

#### **5. Parties' Contentions**

##### **A. Complainant**

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

Notably, the Complainant contends that the disputed domain name is confusingly similar to its BACCARAT trademark. The disputed domain name entirely incorporates the BACCARAT trademark with the addition of terms "shop" and "us". The additional terms "shop" and "us" do not distinguish the disputed domain name from the Complainant's trademark. The generic Top-Level Domain ("gTLD") ".com" is disregarded under the first element confusing similarity test. Thus, the disputed domain name is confusingly similar to the Complainant's BACCARAT trademark.

The Complainant further contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not commonly known by the disputed domain name and has not acquired any trademark or service mark rights corresponding to the disputed domain name. The Respondent has no relationship with the Complainant, and the Complainant has not licensed or otherwise permitted the Respondent to use the BACCARAT trademark or to register a domain name incorporating this trademark. Furthermore, the Respondent is not using the disputed domain name in connection with making a bona fide offering of goods or services.

The Complainant finally contends that the disputed domain name was registered and is being used in bad faith. The Respondent resolves the disputed domain name to a website boldly displaying the Complainant's BACCARAT trademark and purportedly offering products relating to the Complainant, which means that the Respondent has actual awareness of the Complainant and its trademark. The website associated with the disputed domain name is similar to the Complainant's official website, which means that the Respondent has intention to attract, for commercial gain, Internet users to his website by creating a likelihood of confusion with the BACCARAT trademark and the Complainant as to the source, sponsorship, affiliation, or

endorsement of his website or location. In addition, the Respondent's registration of the disputed domain name has prevented the Complainant from using the disputed domain name to reflect its 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 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 trademark is reproduced 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 "shop" and "us" may bear on assessment of the second and third elements, the Panel finds the addition of such terms do not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark 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 that 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 disputed domain name resolves to a website boldly displaying the Complainant's BACCARAT trademark and purportedly offering products relating to the Complainant. Such use of the disputed domain name cannot be deemed as a bona fide offering of goods or services, or a legitimate noncommercial or fair use.

In addition, the nature of the disputed domain name, comprising the BACCARAT trademark and the additional terms “shop” and “us”, is inherently misleading, and carries a risk of implied affiliation. Such composition of the disputed domain name does not support a finding of any rights or legitimate interests on the Respondent.

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 disputed domain name was registered far after the Complainant’s first registration of the BACCARAT trademark. According to the Complainant’s evidence, the Panel accepts that the Complainant and the BACCARAT trademark have gained a certain degree of reputation and recognition among relevant consumers worldwide. Thus, the Panel views that the Respondent should have been aware of the Complainant and the BACCARAT trademark. In addition, the Respondent resolves the disputed domain name to a website boldly displaying the BACCARAT trademark and purportedly offering products relating to the Complainant, which could prove that the Respondent has actual knowledge of the Complainant and the BACCARAT trademark at the time of registering the disputed domain name.

The Respondent boldly displays the BACCARAT trademark and purportedly offers products relating to the Complainant on the website associated with the disputed domain name. The Panel views that the Respondent has intention to cause confusion to Internet users that he has relationship with the Complainant and the BACCARAT trademark and gain commercial benefits therefrom. Thus, the Panel holds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website by creating likelihood of confusion with the Complainant and the BACCARAT trademark as to the source, sponsorship, affiliation, or endorsement of his website or location or products and services.

Given all the circumstances of the case, the Panel concludes that the Respondent registered and is using the disputed domain name in 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 <baccaratshopus.com> be transferred to the Complainant.

*/Jacob Changjie Chen/*

**Jacob Changjie Chen**

Sole Panelist

Date: May 20, 2024