

ADMINISTRATIVE PANEL DECISION

The Coca-Cola Company v. BaiDeng
Case No. D2024-1570

1. The Parties

The Complainant is The Coca-Cola Company, United States of America (“US”), represented by Rahul Chaudhry & Partners, India.

The Respondent is BaiDeng, Australia.

2. The Domain Name and Registrar

The disputed domain name <on-linecoke.net> 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 April 15, 2024. On April 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 16, 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 April 19, 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 April 26, 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 the Respondent of the Complaint, and the proceedings commenced on April 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 19, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 20, 2024.

The Center appointed Angelica Lodigiani as the sole panelist in this matter on May 30, 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 well-known US corporation operating in the beverage field since more than 137 years with products sold in over 200 countries. The Complainant deals with alcoholic and non-alcoholic beverages, concentrate syrups and aerated drinks around the world. The Complainant's portfolio of products includes some of the mostly renowned beverage brands in the world, such as COCA-COLA, FANTA, SPRITE, MINUTE MAID, POWERADE, DIET COKE, THUMS UP, etc. The Complainant offers approximately 2.2 billion servings of its drinks per day, employs 700,000 individuals and has a vast network of over 225 bottling partners and around 950 production facilities worldwide that help to deliver the Complainant's products across the globe.

The history of the COCA-COLA brand dates back to 1886, while the first advertisement of the trademark COKE dates back to June 1, 1941. At that time, the COKE mark was used as the abbreviation of the brand name COCA-COLA. Since then, the COKE mark has been used interchangeably with COCA-COLA. The COCA-COLA and COKE trademarks are renowned worldwide, as testified by their longstanding and widespread use, the significant advertising and promotional investments referring to these marks, and the numerous recognitions gained.

The trademark COKE is protected in various jurisdictions around the world. Inter alia, the Complainant owns the following trademarks:

- COKE, Indian registration No. 13379, registered on March 13, 1943, in relation to goods in class 32;
- COKE LIGHT, Indian registration No. 575341, registered on June 17, 1992, for goods in class 32;
- DIET COKE, Indian registration No. 575337, registered on June 17, 1992, for goods in class 32.

The Complainant is also the owner of various domain names including the trademark COKE, among which <coke.com>, registered on July 7, 1997, <coke.net>, registered on July 29, 1998, and <coke.org> registered on April 19, 1999.

The Respondent is an individual or entity allegedly located in Australia. The disputed domain name has been registered on March 8, 2024, and resolves to a red background web page which appears to be a login page displaying the COCA-COLA trademark and a branded product COCA-COLA can prominently, and inviting Internet users to register themselves by inserting their telephone number and an invitation code, and to login through their telephone number and password to a purported online money-earning platform.

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 is confusingly similar to the Complainant's mark. The disputed domain name incorporates the trademark COKE in its entirety and this trademark is clearly recognizable within the disputed domain name despite the addition of the prefix "on-line". Accordingly, when confronted with the disputed domain name, the Complainant's consumers are likely to believe that the disputed domain name originates from the Complainant or is associated with, controlled or approved by the Complainant.

The Complainant further contends that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent bears no relationship with the Complainant and is neither a licensee nor obtained authorization to register and use a domain name incorporating the Complainant's COKE mark. The Respondent is using the disputed domain name as part of a phishing scam. Such use cannot confer rights or legitimate interests on the Respondent. Since the COKE mark enjoys extensive reputation, the Complainant's intention behind the registration and use of the disputed domain name could only have been that of capitalizing on the reputation and goodwill in the Complainant's mark for the Respondent's personal interest.

Lastly, the Complainant affirms that the disputed domain name was registered and is being used in bad faith. Given the fame of the Complainant's mark and the fact that the disputed domain name reproduces this mark entirely, it is clear that the Respondent was well aware of the trademark COKE and of the Complainant's business at the time of the registration of the disputed domain name. The fact that the website associated with the disputed domain name displays the trademark COCA-COLA and a COCA-COLA can prominently and uses the red color, which is distinctive of the Complainant, confirms this circumstance. The disputed domain name is linked to a money-earning platform where Internet visitors are invited to invest their money. Therefore, the Respondent is using the disputed domain name to deceive potential investors by taking advantage of the substantial reputation of the Complainant's marks to the Respondent's economic advantage.

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. In particular, the Complainant has shown that it is the owner of the COKE mark registered in various jurisdictions.

The entirety of the mark is reproduced and is well recognizable within the disputed domain name. Although the addition of other terms here, "on-line", may bear on assessment of the second and third elements, given the circumstances of the case, 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.

Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

In particular, the Panel notes that the Complainant has no relationship with the Respondent and has never authorized the Respondent to register or make use of its trademarks in the disputed domain name and corresponding website. Moreover, the Respondent does not appear to be commonly known by the domain name. The disputed domain name consists of the Complainant’s COKE mark anticipated by the generic term “on-line”. Such composition of the disputed domain name cannot constitute fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant.

The Respondent has been using the disputed domain name in connection with a website which appears to be a login page where Internet users must register themselves by inserting their telephone number and an invitation code in order to login on an alleged money-earning platform by inserting their telephone number and password. The Respondent’s website also displays the Complainant’s COCA-COLA mark, and a branded product COCA-COLA can prominently, presumably to make the site more trustworthy in the eyes of consumers. Such use cannot amount to a bona fide offering of goods or services or to a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Panels have held that the use of a domain name for illegal activity such as 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.

In the present case, the Panel notes that the disputed domain name includes a trademark that enjoys substantial reputation. Given its fame and the fact that the website associated with the disputed domain name reproduces the Complainant’s renowned mark COCA-COLA, it is clear that the Respondent was well aware of the existence of the COKE mark when it registered the disputed domain name. The registration of a domain name reproducing a third party’s well-known trademark without rights or legitimate interests amounts to registration in bad faith.

Panels have held that the use of a domain name for illegal activity such as impersonation/passing-off as applicable to this case constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. In this case, the Respondent is using the disputed domain name to misleadingly attract Internet users to its website for potential phishing purposes. The Panel therefore finds that by using the disputed domain name, the Respondent has

intentionally attempted to attract, for commercial gain, Internet users to its web site by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. In light of this, the Panel finds the Respondent's use of the disputed domain name 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 name <on-linecoke.net> be transferred to the Complainant.

/Angelica Lodigiani/

Angelica Lodigiani

Sole Panelist

Date: June 13, 2024