

ADMINISTRATIVE PANEL DECISION

Tiger of Sweden AB v. Zhang Qiang
Case No. D2024-1961

1. The Parties

The Complainant is Tiger of Sweden AB, Sweden, represented by Corsearch, Netherlands (Kingdom of the).

The Respondent is Zhang Qiang, China.

2. The Domain Names and Registrar

The disputed domain names <tigerofswedenaustralia.com>, <tigerofswedendanmark.com>, <tigerofswedenjapan.com>, <tigerofswedennorge.com>, and <tigerofswedensouthafrica.net> is registered with Paknic (Private) Limited (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 10, 2024. On May 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Whois Agent, Web Domains By Proxy) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 13, 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 May 17, 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 May 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 10, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 11, 2024.

The Center appointed Olga Zalomiy as the sole panelist in this matter on June 18, 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 Swedish clothing company. The Complainant owns numerous TIGER OF SWEDEN trademark registrations around the world, such as:

- European Union Trademark Registration No. 007473424 for the word mark TIGER OF SWEDEN, registered on August 22, 2009;
- European Union Trademark Registration No. 004809364 for the TIGER OF SWEDEN device mark, registered on February 10, 2010; and
- International Trademark Registration No. 1309386 for the word mark TIGER OF SWEDEN, registered on June 30, 2016.

The Complainant's main website is available at <tigerofsweden.com>

The Respondent registered the disputed domain names <tigerofswedenaustralia.com>, <tigerofswedendanmark.com>, <tigerofswedenjapan.com>, and <tigerofsweden norge.com> on July 4, 2023, and the disputed domain name <tigerofswedensouthafrica.net> on July 5, 2023. The disputed domain names direct to identical websites in different languages that display the Complainant's trademark and copyrighted images and offer for sale purported Tiger of Sweden clothes at discounted prices.

The Respondent has been a respondent in prior domain name cases, in which he registered and used in bad faith domain names incorporating third party trademarks.¹

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 names are confusingly similar to its well-known TIGER OF SWEDEN trademarks because the disputed domain names reproduce the Complainant's mark in its entirety. The Complainant argues that the inclusion of the geographical terms Australia, Danmark, Japan, Norge and South Africa fail to alleviate the confusion between the disputed domain names and is insufficient to distinguish the disputed domain names and the Complainant's trademark. The Complainant argues that the additions of the generic Top-Level Domain ("gTLD") ".com" and ".net" are insufficient to avoid confusing similarity.

The Complainant submits that the Respondent has no rights or legitimate interests in the disputed domain names because (i) the Respondent's is neither affiliated or has been authorized by the Complainant to use its TIGER OF SWEDEN trademark in the disputed domain names or in any other form; (ii) the Respondent cannot claim prior rights or legitimate interests in the disputed domain names because the TIGER OF SWEDEN trademark precedes registration of the disputed domain names; (iii) there is no evidence that the Respondent is commonly known by the disputed domain names or the name "Tiger of Sweden"; (iv) the

¹See, *Archer-Daniels-Midland Company v. Zhang Qiang*, WIPO Case No. [D2015-1758](#); *10Days Wholesale B.V. v. Zhang Qiang*, WIPO Case No. [D2024-0732](#); *Compagnie Générale des Etablissements Michelin v. Zhangqiang*, WIPO Case No. [D2018-1573](#).

disputed domain names direct to identical websites that display the Complainant's trademark, copyright images and goods without a proper disclosure of the Respondent's relationship with the Complainant; (vi) it is likely that the Respondent is using the disputed domains names to sell counterfeit items.

The Complainant asserts that the Respondent registered the disputed domain names in bad faith, as evidenced by the fact that the Respondent registered them with the Complainant's name and trademark in mind. The Complainant argues that its trademark is well-known throughout the world, so it is unlikely that the Respondent did not know about the Complainant's mark at the time of the disputed domain names' registration. Additionally, the Complainant highlights that its trademark registrations significantly precede the registration of the disputed domain names, indicating the Respondent's knowledge of the Complainant's name and mark. The Complainant contends that the Respondent's use of the disputed domain names constitutes bad faith, because the websites associated with the disputed domain names create an impression of affiliation with the Complainant by displaying the Complainant's trademark, logo and purported TIGER OF SWEDEN clothing, intending to mislead Internet users and create confusion regarding the source, sponsorship, or endorsement of these sites and lead to commercial gain for the Respondent. The Complainant submits that there is ample evidence that the websites at the disputed domain names are offering for sale counterfeit Tiger of Sweden goods. The Complainant states that the Respondent has been involved in multiple UDRP proceedings involving well-known brands, which shows of pattern of abuse by the Respondent.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, to succeed in this proceeding, the Complainant must prove each of the following elements with respect to the disputed domain names:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names have been registered and are 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 names. 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 Panel finds the mark is recognizable 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. The inclusion of the gTLD (".com" and ".net" in this case) is typically disregarded in the context of the confusing similarity assessment, being a technical requirement of registration. [WIPO Overview 3.0](#), section 1.11.1.

Although the addition of other terms here, geographic terms Australia, Danmark, Japan, Norge, and South Africa, 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.

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.

The evidence on record shows that the Respondent is not commonly known by the disputed domain names. The Respondent is not making legitimate noncommercial or fair use of the disputed domain names. The Respondent has not been authorized by the Complainant to use the Complainant’s trademark in the disputed domain names.

The Respondent’s use of the disputed domain names does not satisfy requirements of bona fide offering of goods and services. Previous UDRP panels have recognized that resellers or distributors using domain names containing the complainant’s trademark to undertake sales of the complainant’s goods may be making a bona fide offering of goods and thus have rights or legitimate interests in such domain names in some situations.

Outlined in the *Okidata* case², the following cumulative requirements must be satisfied for the respondent to make a bona fide offering of goods and services:

- “(i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the site to sell only the trademarked goods or services;
- (iii) the site must accurately and prominently disclose the registrant’s relationship with the trademark holder;
- and
- (iv) the respondent must not try to corner the market in domain names that reflect the trademark.”

Here, the websites at the disputed domain names create an impression of an affiliation between the Complainant and the Respondent by displaying the Complainant’s trademark, logos and photographs. These websites provide no information about the Respondent or its lack of affiliation with the Complainant.

In addition, noting the offer for sale of TIGER OF SWEDEN branded products at discounted prices, it is reasonable to infer that the products offered on the website at the disputed domain names are counterfeit.

Panels have held that the use of a domain name for illegal activity here, claimed sale of counterfeit goods 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 Respondent registered five disputed domain names that incorporate the Complainant's and geographical terms many years after the Complainant's registration of its trademark. The Respondent's lack of rights or legitimate interests in the disputed domain names, coupled with the absence of a credible explanation for the Respondent's choice of the disputed domain names and the Respondent's use of the disputed domain names that direct to websites that display the Complainant's trademark and replicate look and feel of the Complainant's website indicate that the disputed domain names were registered in bad faith.

The UDRP establishes that, for purposes of paragraph 4(a)(iii), "bad faith" registration and use of a domain name can be established by a showing of circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to the respondent's website or other online location, by creating a likelihood of confusion with the complainant's mark as to source, sponsorship, affiliation or endorsement of the respondent's website or location, or of a product or service on the respondent's website or location. See Policy, paragraph 4(b)(iv).

Prior UDRP panels have found "the following types of evidence to support a finding that a respondent has registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant's mark: (i) actual confusion, (ii) seeking to cause confusion (including by technical means beyond the domain name itself) for the respondent's commercial benefit, even if unsuccessful, (iii) the lack of a respondent's own rights to or legitimate interests in a domain name, (vi) absence of any conceivable good faith use." [WIPO Overview 3.0](#), section 3.1.4.

Here, the websites at the disputed domain names are designed to look like websites of an official or authorized reseller of the Complainant's products. The Respondent's websites prominently display the Complainant's TIGER OF SWEDEN trademark, logos and offer for sale products at discounted prices that look like the Complainant's goods. None of the websites refer to the Respondent in this case as the owner of the websites. The Panel concludes that the Respondent registered and is using the disputed domain names to intentionally attempt to attract, for commercial gain, the Internet users to the Respondent's websites or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of the Respondent's website or location, or of a product or service on the Respondent's website or location.

The Panel also finds that the Respondent has registered the disputed domain name in order to prevent the Complainant from reflecting its trademark in a corresponding domain name and he has engaged in a pattern of such conduct 4(b)(ii). The evidence shows that the Respondent was a respondent in several different domain name cases, in which he was engaged in bad faith trademark registration and use of domain names that included third party trademarks.

Panels have held that the use of a domain name for illegal activity here, claimed sale of counterfeit goods 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 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 names <tigerofswedenaustralia.com>, <tigerofswedendanmark.com>, <tigerofswedenjapan.com>, <tigerofsweden norge.com>, and <tigerofswedensouthafrica.net> be transferred to the Complainant.

/Olga Zalomiy/

Olga Zalomiy

Sole Panelist

Date: July 2, 2024