

ADMINISTRATIVE PANEL DECISION

Chalhoub Group Limited v. ATM Business Solutions FZLLC
Case No. D2024-2951

1. The Parties

The Complainant is Chalhoub Group Limited, United Arab Emirates (“UAE”), represented by Cabinet Flechner, France.

The Respondent is ATM Business Solutions FZLLC, UAE.

2. The Domain Name and Registrar

The disputed domain name <levelshoes.online> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 19, 2024. On July 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 19, 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 July 25, 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 the same day.

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 July 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 15, 2024. The Respondent filed a Response on July 31, 2024. On August 5, 2024, the Center sent an email regarding the possible settlement to the Parties. The Center sent commencement of panel appointment process email on August 21, 2024, on the same day, the Respondent sent an email communication to the Center and then the Center sent an email regarding the possible settlement to the Parties.

The Center appointed Kaya Köklü as the sole panelist in this matter on September 4, 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 company with its registered seat in the UAE. Since 2012, it is inter alia active in the field of offering and selling footwear and clothing from different brands, particularly in the online environment.

The Complainant is the owner of the LEVEL SHOES trademark, which is registered in the UAE by way of two trademark registrations. The Complainant is the owner of the UAE Trademark Registration no. 240391, registered on March 7, 2016, for LEVEL SHOES, covering protection for various goods in class 25 (Annexes 6 and 8 to the Complaint). Furthermore, the Complainant is the owner of the UAE Trademark Registration no. 240392, registered on March 7, 2016, for LEVEL SHOES, covering protections for various services related to the sale of goods as protected in class 35 (Annexes 7 and 9 to the Complaint).

The Complainant further operates its main website at “www.levelshoes.com” since at least 2012 (Annexes 10, 13 and 14 to the Complaint).

The Respondent is reportedly also located in the UAE.

The disputed domain name was registered on March 14, 2022.

According to provided screenshots in the Complaint, the disputed domain name resolves to an online shop that purportedly offers clothes and shoes from different brands (Annex 11 to the Complaint). The associated website prominently uses the LEVEL SHOES trademark without any visible disclaimer describing the (lack of) relationship between the Parties.

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.

B. Respondent

The Respondent contends that the Complainant has not satisfied the elements required under the Policy for a transfer of the disputed domain name. The Respondent particularly argues that all products offered on its website at the disputed domain name are genuine. The Respondent's main argument is stated in the following terms:

“The [disputed domain name] is used exclusively as a supplementary site to support our main business at [Divan Cafe which] is an online ordering platform designed to boost restaurant revenue... To engage and retain customers on the Divan Cafe platform, we have organized a cross-sell strategy. This includes a loyalty program [] where accumulated Divan Points can be exchanged for products available [at the disputed domain name].”

The Respondent claims to be generally authorized to re-sell goods sourced from two third-party websites, but did not however provide any statement or argument, why it believes to be entitled to use the Complainant's trademark LEVEL SHOES within the disputed domain name.

Rather, the Respondent indicated to the Center that it is open for an amicable solution, while a cancellation or transfer of the disputed domain name to the Complainant shall not being acceptable to the Respondent.

6. Discussion and Findings

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

For the evaluation of this case, the Panel has taken note of the WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), and, where appropriate, will decide consistent with the consensus views stated therein.

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 3.0](#), section 1.7.

The Complainant has shown rights in respect of the LEVEL SHOES trademark 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 name with no addition or amendments. Accordingly, the disputed domain name is identical to the LEVEL SHOES 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.

There is inter alia no indication in the case file that the Respondent is commonly known by the disputed domain name, nor that there are any circumstances or activities that would establish the Respondent's rights or legitimate interests therein. Particularly, the Respondent's allegation that it only offers genuine products (even if true) by itself creates no legitimate interest or even right to use the Complainant's LEVEL SHOES trademark in the manner done so in the disputed domain name. This argument is moreover undercut by the Respondent's own allegation that it uses the website linked to the disputed domain name as a secondary website for the redemption of points obtained on its main website. First, this allegation appears to be false as indicated by the screenshots of the website associated to the disputed domain name as provided by the Complainant. These screenshots indicate that the shoes are offered for sale by the Respondent to discounted prices, not points (Annex 11 to the Complaint). Second, even if true, also a use of the disputed domain name as a platform for the redemption of points linked to a separate business would not establish rights or legitimate interests in the disputed domain name with the Respondent.

Above all, the use of the exact and unadorned trademark as the disputed domain name creates the false impression that it is officially authorized by the Complainant, which is not the case.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that Respondent obviously had the Complainant and its LEVEL SHOES trademark in mind when registering the disputed domain name. Noting the Complainant's prior use of the LEVEL SHOES trademark (many years prior to the date of registration of the disputed domain name by the Respondent), it is obvious to the Panel that the Respondent, who – like the Complainant – is reportedly also located in the UAE, has deliberately chosen the disputed domain name to target the Complainant and draw in and mislead Internet users into believing there is some authorization which in fact does not exist. Consequently, the Panel is convinced that the Respondent has registered the disputed domain name in bad faith.

With respect to the use of the disputed domain name in bad faith, the Panel finds that the Respondent uses the disputed domain name in order to generate traffic to its own website by deliberately misleading Internet users in a false belief that the associated website is either operated or at least authorized by the Complainant. The prominent use of the Complainant's LEVEL SHOES mark, and the nature of the disputed domain name (which is identical to the Complainant's trademark) is, in view of the Panel, clear evidence that the Respondent intentionally tries to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant and its LEVEL SHOES trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's website.

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 <levelshoes.online> be cancelled.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: September 18, 2024