

ADMINISTRATIVE PANEL DECISION

Pointe Noir Pty Ltd v. Parker Martin
Case No. D2024-3053

1. The Parties

1.1 The Complainant is Pointe Noir Pty Ltd, Australia, represented by Venable, LLP, United States of America.

1.2 The Respondent is Parker Martin, United States of America.

2. The Domain Name and Registrar

2.1 The disputed domain name <blochdance-sale.shop> (the “Domain Name”) is registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

3.1 The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 25, 2024. At that time, publicly available Whois details did not identify the registrant of the Domain Name.

3.2 On July 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 26, 2024, the Registrar transmitted by email to the Center its verification response disclosing the underlying registrant details in respect of the Domain Name. The Center sent an email communication to the Complainant on July 30, 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 July 30, 2024.

3.3 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”).

3.4 In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on August 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 22, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 26, 2024.

3.5 The Center appointed Matthew S. Harris 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

4.1 The Complainant is an entity incorporated and based in Australia involved in the design, manufacture, and sale of technical dance footwear (such as ballet pointe and tap shoes) and apparel. The Complainant's business was founded by Jacob Bloch in 1932 and one of Mr Bloch's descendants is involved in the operation of the Complainant to this day.

4.2 The Complainant's business has been promoted on websites operating from a number of domain names including <blochworld.com> since at least April 1998, and <bloch.com.au> since at least 2008. The Complainant's pointe shoes are used by leading dance companies throughout the world, such as the Royal Ballet, the American Ballet Theatre, the Bolshoi Ballet, and the Australian Ballet and have been or are worn by many well-known ballerinas.

4.3 The Complainant is the owner of a number of registered trade marks including the following:

- (i) United States Registered Trade Mark no 1,898,161 for BLOCH registered on June 6, 1995, as a standard character mark in class 25; and
- (ii) United States Registered Trade Mark no 3,101,147 for BLOCH registered on June 6, 2006, as a standard character mark in class 35.

4.4 The Domain Name was registered on July 20, 2024. It has been used since registration for a website the purports to be operated by the Complainant when it is not. In particular, it adopts a very similar structure and colour scheme to that of the Complainant's United States website. It reproduces a stylised version of the Complainant's BLOCH trade mark and a series of photographs that appear on the Complainant's United States website. It also has an "About Us" page that suggests the site is operated by the Complainant. However, the products being sold from the website operating from the Domain Name are considerably cheaper than those offered on the Complainant's website. By way of example, authentic Bloch Axiom Strong Pointe shoes usually retail in the United States for USD104, but have been offered for sale on the website operating from the Domain Name, for USD26.

5. Parties' Contentions

A. Complainant

5.1 The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

5.2 Notably, the Complainant refers to its business, marks, and websites and describes the website operating from the Domain Name. It contends that it to be inferred from the fact that the difference in price between the price at which its products are usually sold and the price sought for products sold on the website operating from the Domain Name, that the products being sold on the Respondent's website are counterfeit.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

6.1 It is generally 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 Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

6.2 The Complainant has shown that it has rights in the registered trade mark BOCH. [WIPO Overview 3.0](#), section 1.2.1.

6.3 The most sensible reading of the Domain Name is as the term "Boch" combined with the words "dance" and "sale", and the ".shop" new generic Top-Level Domain ("gTLD"). Accordingly, the entirety of the Complainant's mark is reproduced within the Domain Name and as a consequence that mark is clearly recognisable within Domain Name.

6.4 It follows that the Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Further, the addition of the words "dance" and "sale" does not prevent a finding of confusing similarity between the Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

6.5 The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests and Registered and Used in Bad Faith

6.6 It is usual for panels under the Policy to consider the issues of rights or legitimate interests and registration and use in bad faith in turn. However, in this case it is more convenient to consider those issues together. [WIPO Overview 3.0](#), section 2.15.

6.7 The Domain Name inherently and falsely represents that it is controlled by the Complainant. The combination of the Complaint's trade mark with the word "dance" is likely to be understood as a reference to the Complainant's mark and business, and the addition of the words "sale" and the ".shop" gTLD is likely to be understood by Internet users as being used for an online "shop", where the Complainant is selling products that are on "sale" (in the sense of being made available at a reduced price).

6.8 Further, the Panel accepts that the Domain Name has been deliberately registered in order to set up and operate a website that falsely impersonates the Complainant. The material that the Complainant has provided clearly demonstrates that considerable aspects of the website operating from the Domain Name reproduce one of the Complainant's genuine websites, and has other aspects (such as the About Us page) that are clearly designed to be understood by Internet users as representing that the website is operated by the Complainant. The Panel also accepts, as a result of the Complainant's evidence of the prices at which its genuine products are sold and the price of those products on the website operating from the Domain Name, that the most likely reason why this had been done is in order to sell counterfeit products.

6.9 There is obviously no rights or legitimate interests in holding a domain name for the purpose of impersonating a trade mark owner for the purposes of selling counterfeit goods (see sections 2.5.1 and 2.13 of the [WIPO Overview 3.0](#)), and the fact that a domain name is or has been used for such a purpose is evidence that no such rights or legitimate interests exist. Further, the registration and use of a domain name for such a purpose involves registration and use in bad faith (see, sections 3.1.4 and 3.4 of the [WIPO Overview 3.0](#)).

6.10 In the circumstances, the Panel finds that the second and third elements of the Policy have been established.

7. Decision

7.1 For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Name <blochdance-sale.shop> be transferred to the Complainant.

/Matthew S. Harris/

Matthew S. Harris

Sole Panelist

Date: September 18, 2024