

ADMINISTRATIVE PANEL DECISION

Bayard v. Alexis Stone
Case No. D2024-3337

1. The Parties

The Complainant is Bayard, France, represented by Grant Thornton, France.

The Respondent is Alexis Stone, United States of America (“US”).

2. The Domain Name and Registrar

The disputed domain name <bayardjeunesse.shop> is registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 14, 2024. On August 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 15, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 16, 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 August 19, 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 August 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 15, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 16, 2024.

The Center appointed Gareth Dickson as the sole panelist in this matter on September 25, 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 French publishing house and press group. It was established in 1870 and has a significant presence in the publishing industry, particularly in children's publications. The Complainant produces magazines, books, and digital content for children and teenagers, with a reach of over 6 million readers monthly, under its BAYARD trade mark (the "Mark").

The Complainant owns several registered trade marks for the Mark, including:

(i) International trade mark registration number 1462200, registered on July 3, 2018, covering various goods and services related to publishing and education in classes 9, 16, 28, 35, 38, and 41;

(ii) European Union trade mark registration number 017926186, registered on January 26, 2019, covering similar goods and services in classes 9, 16, 28, 35, 38, and 41; and

(iii) European Union trade mark registration number 006795629, registered on December 17, 2008, also covering goods and services in the publishing sector.

The Complainant also owns the domain name <bayard-jeunesse.com>, registered on February 26, 2003, which is used to offer their products and services online.

The disputed domain name, <bayardjeunesse.shop>, was registered on June 24, 2024, and has been used to display a website that imitates the Complainant's official website and offers products similar to those of the Complainant, without authorization.

Although the website to which the disputed domain name resolves includes corporate and contact information purportedly identifying those behind that website (and by implication the disputed domain name), the Complainant has provided evidence that that corporate and contact information has been misappropriated and misused by the Respondent, without its owner's knowledge or permission.

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 identical or confusingly similar to the Mark, that the Respondent has no rights or legitimate interests in the disputed domain name (not least since the Complainant confirms that it has not given the Complainant any consent to use the Mark in any way whatsoever), and that the disputed domain name was registered and is being used in bad faith, as shown, in particular, by the steps the Respondent has taken to post misleading corporate and contact information on its website, which it has misappropriated from an innocent third party.

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 trade mark 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 trade mark or service mark 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. 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, here the French word "jeunesse" (meaning "youth"), 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 name and the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8. Similarly, the use of the generic Top-Level Domain ("gTLD") ".shop" does not prevent a finding of confusing similarity. [WIPO Overview 3.0](#), section 1.11.

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, including the Complainant's assertions that it has not given any permission or authorization for the Respondent to use the Mark, and noting that the Respondent has posted misleading contact and corporate information on its website offering products similar to those of the Complainant, without authorization, 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.

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 the Respondent has registered the disputed domain name that incorporates the Mark in full alongside a term used by the Complainant to describe a certain category of its own goods, and that by doing so has registered a domain name confusingly similar to its Mark.

The disputed domain name is being used by the Respondent to attract Internet users, to sell the Complainant's products and other products, by creating a likelihood of confusion with the Complainant's Mark.

Furthermore, the Panel also notes that the Respondent has taken significant steps to post corporate and contact information on its website which belong to a wholly innocent third party, in an effort to further mislead Internet users.

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 <bayardjeunesse.shop> be transferred to the Complainant.

/Gareth Dickson/

Gareth Dickson

Sole Panelist

Date: October 16, 2024