

## **ADMINISTRATIVE PANEL DECISION**

Hunza G Limited v. Nicole Seiler  
Case No. D2024-3427

### **1. The Parties**

The Complainant is Hunza G Limited, United Kingdom, represented by Briffa Legal Limited, United Kingdom.

The Respondent is Nicole Seiler, Germany.

### **2. The Domain Name and Registrar**

The disputed domain name <hunzaglondon.com> (the “Disputed Domain Name”) is registered with Key-Systems GmbH (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 21, 2024. On August 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On August 22, 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 September 3, 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 September 4, 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 September 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 30, 2024.

The Center appointed Christos A. Theodoulou as the sole panelist in this matter on October 2, 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, Hunza G Limited, was incorporated on May 4, 2018, to carry on the business of designing and offering for sale swimwear and clothing under the HUNZA and HUNZA G marks. According to the information provided by the Complainant and not refuted by the Respondent, the HUNZA trademark has been in use since 1984 in connection with swimwear and clothing by entities in the Complainant's group of companies.

According to the Complainant, its business has experienced success in the market and its products are sold in 250 retail stores in the world, including Harrods, Selfridges, Net-a-Porter and SaksFifthAvenue.

The Complainant claims to have exclusive rights in the HUNZA and HUNZA G marks, based on registrations in various jurisdictions.

The Complainant's trademarks include:

- (i) United Kingdom Trademark Registration No. 3100102, HUNZA, registered on June 12, 2015;
- (ii) European Union Trademark Registration No. 017896483, HUNZA G, registered on September 6, 2018;
- (iii) United States of America Trademark Registration No. 6,132,758, HUNZA G, registered on August 25, 2020.

All these trademarks predate the registration of the Disputed Domain Name, which took place on May 20, 2024.

The Complainant also owns domain names incorporating its marks, of which <hunzag.com> is principally used.

The Disputed Domain Name resolves to a website displaying the Complainant's HUNZA and HUNZA G marks and purportedly offering for sale the Complainant's products at discounted prices.

#### **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 trademarks in which the Complainant has rights, that the Respondent lacks any rights or legitimate interests in respect of the Disputed Domain Name, and that the Respondent's fraudulent use of the Disputed Domain Name amounts to bad faith. As to the generic Top-Level Domain ("gTLD") ".com", the Complainant suggests that it should be disregarded, as per the usual practice. The same is valid for the generic name "london", as mentioned in detail below.

The Complainant states that the Disputed Domain Name is identical to the HUNZA G mark in which the Complainant has rights. It is mentioned by the Complainant that the Disputed Domain Name includes the entirety of the Complainant's HUNZA G mark.

Moreover, the Complainant contends that the Disputed Domain Name resolves to a webpage where goods, purportedly of the Complainant, are offered for sale, without the Complainant's authorization. The Complainant further alleges that the Respondent has no rights or legitimate interests in the Disputed Domain Name and has not received any license from the Complainant to use any domain names featuring the HUNZA G trademark.

Lastly, according to the Complainant, there is no indication that the Respondent is commonly known by any terms used in the Disputed Domain Name. Further, the Complainant asserts that the Respondent registered the Disputed Domain Name primarily for the purpose of diverting potential customers of the Complainant to the Respondent's website. The Respondent is using the Disputed Domain Name intentionally to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's marks as to the source, affiliation or endorsement of the website, contrary to paragraph 4(b)(iv) of the Policy.

## **B. Respondent**

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

## **6. Discussion and Findings**

The Panel shall now proceed to the analysis of the evidence in this case and shall decide if the Complainant has satisfied the three elements of paragraph 4(a) of the Policy.

### **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 presented evidence to demonstrate that it owns registered trademark rights to HUNZA and HUNZA G marks. Therefore, 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 entirety of the HUNZA and HUNZA G marks are reproduced within the Disputed Domain Name. These marks of the Complainant remain recognizable in the Disputed Domain Name, and this is by itself sufficient to establish the criterion of confusing similarity for purposes of the Policy, as many previous UDRP panels have found. [WIPO Overview 3.0](#), section 1.7.

Further, the addition of the geographical term "london", according to the established jurisprudence, does not alter the fact that the Disputed Domain Name is confusingly similar to the mark in which the Complainant has rights. [WIPO Overview 3.0](#), section 1.8.

As far as the gTLD ".com" is concerned, it is generally recognized that a TLD is viewed as a standard registration requirement and as such is disregarded under the confusing similarity test of paragraph 4(a)(i) of the Policy. [WIPO Overview 3.0](#), section 1.11.1.

In view of the above, the Panel finds that the Complainant has discharged its burden of proof on this point and holds that the Disputed Domain Name is confusingly similar to the Complainant's trademarks HUNZA and HUNZA G for the purposes of the Policy.

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 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 finds that the Respondent has not used the Disputed Domain Name (nor have they made demonstrable plans for such use) with a bona fide offering of goods or services; that the Respondent is not commonly known by the Disputed Domain Name; and that the Respondent has not made legitimate noncommercial or fair use of the Disputed Domain Name.

Panels have held that the use of a domain name for illegal activity, here claimed impersonation/passing off, or other types of fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

As a conclusion on this point, the Panel finds the second element of the Policy has been established and that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and has thus satisfied paragraph 4(a)(ii) of the Policy.

## **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’s Disputed Domain Name was only created on May 20, 2024, while the Complainant’s marks had been registered many years earlier. The Complainant has also demonstrated that its businesses are well known globally. From the case record at hand, the Panel thus finds that the Respondent, when registering the Disputed Domain Name, was well aware of the Complainant’s trademarks. Such finding has been reinforced by the fact that the Respondent uses the Complainant’s trademarks on the website at the Disputed Domain Name. The Respondent’s awareness of the Complainant’s trademark rights at the time of registration suggests bad faith (see *Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite*, WIPO Case No. [D2001-1070](#), *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#), *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#)).

Further 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.

Further, the Panel finds that the Respondent has shown a bad faith conduct in the way the Respondent has used the Disputed Domain Name. The evidence provided by the Complainant shows that the Respondent purportedly offers for sale on the website under the Disputed Domain Name goods that are under the Complainant's trademarks, which has shown to this Panel that the Respondent intends to divert traffic away from the Complainant's website for its commercial gain. Moreover, the Respondent's website visually resembles the Complainant's website, and the composition of the disputed domain name, incorporating the Complainant's trademarks together with a geographical term "london", may mislead Internet users into believing that the disputed domain name is somehow associated with the Complainant. Such use demonstrates the Respondent's intention to impersonate or pass off as the Complainant.

Hence, having reviewed the record, the Panel finds the Respondent's registration and use of the Disputed Domain Name constitutes bad faith under the Policy.

In light of the above, the Panel finds that the Respondent has registered and is using the Disputed Domain Name in bad faith, thus 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 <hunzaglondon.com> be transferred to the Complainant.

*/Christos A. Theodoulou/*

**Christos A. Theodoulou**

Sole Panelist

Date: October 11, 2024