

ADMINISTRATIVE PANEL DECISION

Euomarket Designs, Inc. d/b/a CB2 v. 郭清兵 (Guo Qing Bing)
Case No. D2024-3629

1. The Parties

The Complainant is Euomarket Designs, Inc. d/b/a CB2, United States of America (“United States” or “U.S.”), represented by Neal, Gerber & Eisenberg LLP, United States.

The Respondent is 郭清兵 (Guo Qing Bing), China.

2. The Domain Name and Registrar

The disputed domain name <cb2furniture.store> (“Disputed Domain Name”) is registered with DNSPod, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on September 6, 2024. On September 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On September 10, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. The Center sent an email communication to the Complainant on September 10, 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 in English on September 13, 2024.

On September 10, 2024, the Center informed the parties in Chinese and English, that the language of the registration agreement for the Disputed Domain Name is Chinese. On September 13, 2024, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 in Chinese and English, and the proceedings commenced on September 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 9, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 16, 2024.

The Center appointed Rosita Li as the sole panelist in this matter on October 22, 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 United States company providing contemporary home furnishings, furniture and other home décor products through its catalogues, web site, and retail stores located across the United States.

The Complainant is the owner of the following registrations in the United States Patent and Trademark Office:

- 1) Trademark Registration No. 2643435 for **CB2** registered on October 29, 2002; and
- 2) Trademark Registration No. 5179733 for **CB2** registered on April 11, 2017.

(collectively, the "CB2 Trademarks").

The Complainant promotes its brand and reaches customers through its website at "www.cb2.com", catalogues and retail stores operated in the United States.

The Complainant has invested significant time, effort and resources in promoting and marketing its offerings under and in connection with the CB2 Trademarks. Its extensive use and promotion of the CB2 Trademarks have developed considerable consumer recognition around the world. The Complainant treats the integrity of the CB2 Trademarks as extremely valuable and crucial to its continued vitality and growth.

The Disputed Domain Name was registered on December 22, 2023.

As of the date of filing the Complaint, the Disputed Domain Name resolved to a website containing contents of sales of furniture, household décor and household items.

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:

- (i) The Disputed Domain Name is virtually identical and confusingly similar to the Complainant's CB2 Trademarks. The Complainant contends that:
 - the Disputed Domain Name consists of the Complainant's registered CB2 Trademarks with a highly descriptive term "furniture", which indicates one of the services offered by the Complainant;
 - the inclusion of the generic term "furniture" into the Complainant's well known CB2 Trademarks reinforced the association or false impression that the products offered at the Disputed Domain Name is linked to the Complainant;

- the inclusion of the CB2 Trademarks, which is recognizable in the Disputed Domain Name, is sufficient to establish the identical or confusingly similar element of the UDRP; and
- the top-level domain indicator “.store” does not distinguish the Disputed Domain Name from the Complainant’s CB2 Trademarks.

(ii) The Respondent has no legitimate interest in or right to the Disputed Domain Name. The Complainant contends that:

- the Respondent has no legal relationship with the Complainant to which the Respondent can claim any rights to the CB2 Trademarks or to the Disputed Domain Name;
- the Complainant has not consented to the Respondent’s registration or use of the Disputed Domain Name;
- the mere registration of a domain name does not confer trademark rights upon the registrant and such rights can arise only through the bona fide offering of goods or services;
- the Respondent is not using the Disputed Domain Name to make a bona fide offering of goods or services;
- the Respondent is clearly intending to impersonate the Complainant as the website where the Disputed Domain Name directs to made no indication that there is no relationship between the Complainant and the Respondent;
- the Respondent’s acts of copying proprietary product images from the Complainant’s “www.cb2.com” website, displaying such images on the Respondent’s website and connecting the Respondent’s social media links to the Complainant’s “www.cb2.com” website gives users the false impression that the Respondent’s website is authorized by or otherwise associated with the Complainant;
- the Respondent is using the Disputed Domain Name to commercially gain from misleading or diverting customers to its website by creating a likelihood of confusion with the Complainant’s CB2 Trademarks as to the source, sponsorship, affiliation or endorsement of the Respondent’s website;
- the Respondent would not have chosen the Disputed Domain Name unless the Respondent was seeking to intentionally trade on the CB2 Trademarks;
- the Disputed Domain Name resolves to a website that is intended to profit off of attracting Internet users by creating a likelihood of confusion with the Complainant’s CB2 Trademarks; and
- the Complainant has not authorized the Respondent’s use of the CB2 Trademarks in the Disputed Domain Name.

(iii) The Disputed Domain Name was registered and is being used in bad faith. The Complainant contends that:

- the Respondent registered and is using the Disputed Domain Name with full knowledge of the Complainant’s CB2 Trademarks given the Respondent’s use of links from the Disputed Domain Name that connect to the Complainant’s website;
- the Respondent at least had constructive knowledge of the Complainant’s long-standing rights in the CB2 Trademarks when the Disputed Domain Name was registered by the Respondent;
- the Disputed Domain Name suggests that the Respondent has an affiliation with the Complainant when that is not the case;
- the Respondent used the Complainant’s CB2 Trademarks without authorization to purportedly sell competing products;
- the Respondent attempts to impersonate the Complainant by displaying the Complainant’s proprietary product images and connecting its purported social media links to the Complainant’s legitimate “www.cb2.com” website;
- the Respondent is using the Disputed Domain Name to intentionally attract, for commercial gain, Internet users by creating a likelihood of confusion with the CB2 Trademarks as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website; and
- the Respondent has a history of similar fraudulent activity by being involved in at least two separate UDRP proceedings where the panels found that the Respondent had registered and used domain names in bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that a complainant must satisfy each of the following three elements in a complaint:

- (i) the disputed domain name is 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 name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

6.1. Language of the Proceeding

The language of the Registration Agreement for the Disputed Domain Name is English. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Panel notes that the Registrar, DNSPod, Inc, indicated on September 10, 2024 that the language of the Registration Agreement is Chinese.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including but not limited to the fact that:

- 1) the Disputed Domain Name consists of English words and displayed in Latin characters;
- 2) the element "furniture" in the Disputed Domain Name is an English word;
- 3) the website connected to the Disputed Domain Name is displayed in English and does not have a Chinese version;
- 4) the website connected to the Disputed Domain Name advertises products in English and accepts U.S. dollars as the currency for purchases through the website;
- 5) the website connected to the Disputed Domain Name contains at least one link to the Complainant's website "www.cb2.com", which is accessible around the world and describes the Complainant's goods in English, demonstrating the Respondent's sufficient familiarity with English;
- 6) prior UDRP decisions against the Respondent have been issued in English; and
- 7) conducting proceedings in Chinese would cause undue hardship to the Complainant and would delay the proceedings unnecessarily.

The Respondent did not make any submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having reviewed the available Registration Agreement, the Panel notes that the Registration Agreement is in English. Further, it was specifically stated in the Registration Agreement that where the Registration Agreement is provided in another language, the prevailing language is English.

Having considered the Complainant's submission and the circumstances of the matter, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2. Substantive Issues

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 with respect to a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the CB2 Trademarks are reproduced within the Disputed Domain Name. Accordingly, the Disputed Domain Name is confusingly similar to the CB2 Trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here, "furniture", with the generic Topic Level Domain ".store", may bear on the 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 CB2 Trademarks 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 recognised 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 accordance with [WIPO Overview 3.0](#), section 2.5.1, where a domain name consists of a trademark plus an additional term (at the second or top level), UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. Based on the available record, the landing page of the Disputed Domain Name displays several references to the Complainant and the CB2 Trademarks and brand name. The Respondent also displayed the Complainant's proprietary product images on its website and connected its purported social media links to the Complainant's "www.cb2.com" website. Further, the Disputed Domain Name included the Complainant's CB2 Trademarks in its entirety, and the additional term "furniture" and/ or ".store" does not help eliminate the likelihood of confusion as they are highly relevant to the Complainant's business.

Panels have held that the use of a domain name for illegal activity, where the Respondent claimed impersonation as the Complainant, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. By copying the Complainant's proprietary product images and connecting social media links on the Disputed Domain Name website with the Complainant's legitimate "www.cb2.com" website, the Respondent falsely associated with the Complainant and/or impersonated the Complainant.

Given the above, the Panel finds it apparent that the Respondent had the intention to divert consumers seeking to find the Complainant, or to tarnish the Complainant's CB2 Trademarks. It is clear that the use of the Disputed Domain Name, which incorporates the CB2 Trademarks in its entirety, is an attempt by the Respondent to capitalize on the goodwill and reputation of the CB2 Trademarks, which the Panel considers not to be for a legitimate noncommercial or fair use of the Disputed Domain Name.

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's registration of the Disputed Domain Name incorporates the CB2 Trademarks in its entirety. The Panel also notes that the time of registration of the Disputed Domain Name on December 22, 2023 is well after the registration of the Complainant's CB2 Trademarks. The Complainant provided supporting documents to show that the CB2 Trademarks are well known and reputable amongst the general public with over 1 million followers on its social media platform. The Panel accepts that the Complainant has been continuously using its CB2 Trademarks and finds that it would not be plausible for the Respondent to claim that it was unaware of the Complainant and the CB2 Trademarks. The Panel is prepared to find that the Respondent knew or should have known that the registration of the Disputed Domain Name would be confusingly similar to the CB2 Trademarks. ([WIPO Overview 3.0](#), section 3.2.2). Accordingly, the Panel finds that the Respondent's registration of the Disputed Domain Name, which is confusingly similar to the CB2 Trademarks, which are well-known and registered earlier, is a clear indication of bad faith.

In accordance with paragraph 4(b)(iv) of the Policy, if by using the Disputed Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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, is an indicator of bad faith on the part of the Respondent. As elaborated in the previous section "B. Rights or Legitimate Interests" and in the paragraph above, the Respondent used the Disputed Domain Name to attract Internet users through confusion with the CB2 Trademarks, offering products and goods produced by third parties or competitors of the Complainant. Further, the Respondent impersonated the Complainant by claiming to be the Complainant and selling products similar to those offered by the Complainant. In view of this, the Panel is of the view that the Respondent registered and used the Disputed Domain Name in bad faith.

In addition, considering that the Respondent has a history of being named as a respondent in similar domain name dispute cases decided under the Policy as identified by the Complainant in its submission, the Panel finds it reasonable to infer that the Respondent has engaged in a pattern of fraudulent activity, such as the conduct of impersonating the Complainant in this case. Such conduct constitutes a further indication of registration and use of the Disputed Domain Name in bad faith.

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 <cb2furniture.store> be transferred to the Complainant.

/Rosita Li/

Rosita Li

Sole Panelist

Date: November 5, 2024