

ADMINISTRATIVE PANEL DECISION

BOBO CHOSSES, S.L. v. cai jinhuang
Case No. D2024-3981

1. The Parties

The Complainant is BOBO CHOSSES, S.L., Spain, represented by March Trade Mark, S.L., Spain.

The Respondent is cai jinhuang, China.

2. The Domain Name and Registrar

The disputed domain name <bobochoosesvip.shop> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 27, 2024. On September 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 1, 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 Registrant”) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 1, 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 October 3, 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 October 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 27, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 29, 2024.

The Center appointed Jonathan Turner as the sole panelist in this matter on October 31, 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 has carried on a business of designing, manufacturing and selling creative and fun clothes under the marks BOBO CHOSSES since 2008. It is the registered proprietor of the following (amongst other) registrations:

- European Union (“EU”) trademark no. 005871348 for BOBO CHOSSES as a word mark registered on February 29, 2008, in classes 14, 16, 25, 26, 27 and 28
- EU trademark no. 018608419 for BOBO CHOSSES as a word mark registered on March 17, 2022, in class 24
- International trademark no. 1003043 for BOBO CHOSSES as a word mark registered on March 6, 2009, in class 25
- Chinese trademark no. 24506545 for BOBOCHOSSES as a word mark registered on June 7, 2018, in class 25

The Complainant is also the registrant of the domain name <bobochooses.com>, which it uses to locate its website, and it has social media accounts on Instagram, Facebook and Twitter under the names @_bobochooses_, @BOBOCHOSSES and @BOBOCHOSSES respectively.

The disputed domain name has been used to locate a website which purported to sell the Complainant's clothes using photographs of these clothes. Products ordered and paid for via this website were not delivered.

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 highly similar to its well-known mark, that the Respondent has no rights or legitimate interests in the disputed domain name, and that the Respondent has registered and used it to take unfair advantage of the Complainant's reputation and in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel finds that the Complainant has registered rights in the marks BOBO CHOSSES. The Panel is also satisfied that the disputed domain name is confusingly similar to these marks, from which it differs only in the addition of the term “vip” and the generic Top-Level domain name suffix “.shop”.

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

B. Rights or Legitimate Interests

The Panel finds, on the undisputed evidence, that the Respondent has not used the disputed domain name for any bona fide offering of goods or services or for any legitimate noncommercial or fair use. On the contrary, the Respondent has used the disputed domain name illegitimately, to mislead consumers. It is also

evident that the Respondent is not commonly known by the disputed domain name and has not been authorized by the Complainant to use it.

The Panel finds that the Respondent does not have any rights or legitimate interests in the disputed domain name or any corresponding name. The second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel finds, on the undisputed evidence, that the Respondent has used the disputed domain name intentionally to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant's marks as to the source of the Respondent's website and products promoted on it.

In accordance with paragraph 4(b)(iv) of the UDRP this constitutes evidence of registration and use of the disputed domain name in bad faith. There is no evidence displacing this presumption. On the contrary, the evidence shows that the Respondent has used the disputed domain name in bad faith to mislead consumers seeking the Complainant's clothes into ordering and paying for clothes on the Respondent's website which the Respondent did not deliver.

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 <bobochosevip.shop> be transferred to the Complainant.

/Jonathan Turner/

Jonathan Turner

Sole Panelist

Date: November 14, 2024