

ADMINISTRATIVE PANEL DECISION

Global Brother SRL v. yting

Case No. D2024-4198

1. The Parties

The Complainant is Global Brother SRL, Romania, represented by DeFrancescoLaw, United States of America.

The Respondent is yting, Romania.

2. The Domain Name and Registrar

The disputed domain name <globalbrother-srl.com> 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 October 11, 2024. On October 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 12, 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 (GDPR Masked) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 14, 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 October 24, 2024.

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").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on October 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 13, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 14, 2024.

The Center appointed Marilena Comanescu as the sole panelist in this matter on November 20, 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, Global Brother SRL, is a Romanian company incorporated in July 2015, which activates in the business of providing information and materials, books and publications in the fields of health and wellness, self-defense, and survival. Some of the Complainant's book titles and cover images are protected by registered trademarks.

The Complainant provides evidence supporting that its unregistered trademark has become a distinctive identifier which consumers associate with the Complainant's goods and services, such as the following: (i) the affidavit of the Complainant's representative asserting, in particular, that due to the nature and success of its business, GLOBAL BROTHER has become synonymous with the source of its materials, books and publications and related information; (ii) excerpt from the National Commercial Registrar of Companies evidencing the Complainant's company details, including the annual net turnover of approximately EUR 32 mil. in 2022, respectively of EUR 24 mil. in 2021;¹ (iii) Google search results for the name "global brothers books" evidencing the Complainant in the first results generated; and (iv) information from third party's websites, such "www.directtextbook.com" or "www.bookscouter.com" comparison shopping websites, listing the Complainant's products.

The disputed domain name was registered on June 27, 2024, at the time of filing the Complaint it resolved to an online shop, presenting to be owned by "Globalbrother SRL" and listing the Complainant's genuine address, telephone number and incorporation date, and, inter alia, offering for sale the Complainant's books, and displaying the Complainant's product copyrighted pictures and trademarks, without any permission or disclaimer.

Furthermore, when trying to purchase a product on the website under the disputed domain name, an unsuspecting consumer was directed to make an "online inquiry" which collected its identifying information such as name, phone number and email.

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: it claims rights in the unregistered trademark GLOBAL BROTHER since, due to the nature of its business, GLOBAL BROTHER has become synonymous with the source of its materials, books and publications and related information; should secondary meaning of acquired distinctiveness be indeterminate or uncertain, the Complainant invokes the legal doctrines of unfair competition and "passing off" supporting the proposition that the Respondent acquired the disputed domain name for fraudulent purposes targeting the Complainant's mark; the Respondent has no rights or legitimate interests in the disputed domain name; there is no other "Global Brother SRL" entity registered in Romania; the Complainant has prior rights in the GLOBAL BROTHER trademark, which precedes the Respondent's acquisition of the disputed domain name by almost 10 years; at the time of registering the disputed domain name, the Respondent was well aware of the Complainant since it provided, in the Whols, the Complainant's

¹The net turnover for 2021 was RON (Romanian currency) 120,304,885, the net turnover for 2022 was RON 161,617,432.

contact details, namely the address of the Complainant's initial headquarters and its representative's telephone number (with an addition prefix for China); the disputed domain name incorporates GLOBAL BROTHER – the tradename, trademark and business name, owned and used in commerce by the Complainant; by using the name and contact information of the Complainant on the website under the disputed domain name, the disputed domain name creates an impression it is affiliated with or represents the Complainant, leading to confusion among clients and the public and constitutes passing-off and unfair competition; the website under the disputed domain name mimics and impersonates the Complainant, by including titles and images of the Complainant, and communicates offerings to the public for the Complainant's goods, namely books, under the Complainant's identity (including, inter alia, business name, address, phone number) and unregistered trademark; furthermore, the website under the disputed domain name includes deceptive means to collect information from the public, allegedly on behalf of the Complainant, and for phishing purposes; the Respondent has used a privacy shield and further, false contact information (mailing address and phone number) in the Whois.

B. Respondent

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

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

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 term "trademark or service mark" as used in UDRP paragraph 4(a)(i) encompasses both registered and unregistered (sometimes referred to as common law) marks.

The Complainant claims entitlement to rights in "GLOBAL BROTHER" as an unregistered trademark.

To establish unregistered or common law trademark rights, the Complainant must show that its mark has become a distinctive identifier which consumers associate with the Complainant's goods and/or services.

The Panel finds that the Complainant has produced sufficient evidence to successfully assert an unregistered trademark right for the sign "GLOBAL BROTHER" in Romania in the context of the present proceedings, as the Complainant has brought evidence demonstrating in particular the following:

- it started to use the mark "GLOBAL BROTHER" in 2015;
- it has significant sales under the trademark (e.g. the annual turnover in 2021 and 2022);
- it has significant presence on the Internet; and
- the mark "GLOBAL BROTHER" is distinctive in relation to the Complainant's goods and services.

In addition, the Panel notes that trade names and company names are protected in Romania under the trademark law and under general tort law concerning unfair commercial practices. The Complainant proved that its company name and trade name is "GLOBAL BROTHER". The fact that the Respondent has targeted

the Complainant's mark (e.g., based on the manner in which the website at the disputed domain name is used) supports the Complainant's assertion that its mark has achieved significance as a source identifier.

The Panel finds the Complainant has established unregistered trademark rights in GLOBAL BROTHER for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3.

Further, the Panel finds the mark is recognizable 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 term, here, "srl", may bear on assessment of the second and third elements, the Panel finds the addition of such term 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.

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 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.

According to the evidence provided in the Complaint, the Respondent has used the disputed domain name in connection with a website impersonating the Complainant, displaying the GLOBAL BROTHER unregistered trademark and copyrighted images of the actual front covers of the Complainant's books (some protected by registered trademarks, as well), and listing the Complainant's company name and genuine contact details, including phone number. Moreover, the Internet users accessing the website under the disputed domain name, were invited to provide personal details in order to purchase goods. UDRP panels have held that the use of a domain name for illegal activity (such as phishing, 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.

Furthermore, the composition of the disputed domain name, being highly similar to the Complainant's unregistered trademark and virtually identical to the Complainant's trade name, carries a high risk of implied affiliation. 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. [WIPO Overview 3.0](#), section 2.5.1.

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 disputed domain name was registered in bad faith, with knowledge of the Complainant and its trademark particularly because the Complainant's use of the GLOBAL BROTHER name predates the registration of the disputed domain name with almost ten years, and, furthermore the contact details in the WhoIs reflects the genuine contact information of the Complainant's registered headquarters and its representative's phone number (except for an additional prefix). The use of the disputed domain name further enhances such finding.

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.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "to attract, for commercial gain, Internet users to [the respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the 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 evidence of registration and use in bad faith.

Given that the disputed domain name incorporates the Complainant's unregistered trademark and reproduces its trade name (including its form of organization, i.e. "srl" is the abbreviation used for "limited liability company"), and the website operated under the disputed domain name mirrors the Complainant's legitimate business, displays the Complainant's copyrighted images, offers for sale the Complainant's goods, and contains false information regarding its actual holder (by providing the Complainant's contact details), indeed in this Panel's view, the Respondent has intended to attract unsuspecting Internet users accessing the website corresponding to the disputed domain name who may be confused and believe that the website is held, controlled by, or somehow affiliated with or related to the Complainant, for the Respondent's commercial gain.

Panels have held that the use of a domain name for illegal activity (here, claimed phishing, identity theft, impersonation/passing off) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Further, Panels additionally view the provision of false contact information as an indication of bad faith.

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

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, <globalbrother-srl.com>, be transferred to the Complainant.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: December 4, 2024