

ADMINISTRATIVE PANEL DECISION

Black Stone v. xcv

Case No. D2024-4355

1. The Parties

The Complainant is Black Stone, France, represented by Cabinet Bouchara, France.

The Respondent is xcv, China.

2. The Domain Name and Registrar

The disputed domain name <bohm-paris.shop> is registered with Web Commerce Communications Limited dba WebNic.cc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 22, 2024. On October 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 24, 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 (Web Commerce Communication Ltd) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 25, 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 25, 2024.

The Center verified that the Complaint together with 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 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 18, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 19, 2024.

The Center appointed Christopher J. Pibus as the sole panelist in this matter on November 21, 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

With headquarters in Paris, France, the Complainant carries on business as a designer and distributor of jewelry in association with the trademark BOHM. The Complainant began its operations in 2016, using the domain name <boh-m-paris.com> (registered July 18, 2017) to host its principal online store.

The Complainant is the owner of registered rights in the word mark BOHM, as follows:

France - registration of the trademark BOHM no. 3840200, filed June 20, 2011, in classes 14, 18, and 25;

European Union - registration of the trademark BOHM no. 017984605, registered on March 20, 2019, in classes 14, 18, and 25.

The Respondent registered the disputed domain name on March 16, 2024, which it uses to host a website offering jewelry products similar to those offered by the Complainant.

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 relies on compelling evidence of bad faith, establishing the Respondent's use of a website with the look and feel of the Complainant's principal website, including the unauthorized use of the BOHM trademark itself and reproduction of the Complainant's own images of BOHM products, at discounted prices. In the circumstances, the Complainant urges the Panel to find deliberate targeting of the BOHM mark for improper purposes.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, the Complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the trademark or service mark in which the Complainant has rights;
- (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.

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 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 mark is reproduced within the disputed domain name. 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 terms, here, "-paris", 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.

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, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. In particular, the Complainant has brought forward strong evidence of the Respondent's malfeasance in carrying out a scheme, designed to trade on the Complainant's reputation and brand, through the use of a lookalike website and the reproduction of artwork showing the Complainant's jewelry products. The Complainant also points to the composition of the disputed domain name, which features the brand BOHM followed by a hyphen and the word "paris", all of which deliberately replicates the domain name used by the Complainant for its online store and falsely suggests sponsorship or endorsement by the Complainant. 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.

Panels have held that the use of a domain name for illegitimate activity (here, claimed 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.

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 also 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 intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark (paragraph 4(b)(iv) of the Policy). The Respondent set out to target the Complainant by copying the BOHM word mark as the primary element of the disputed domain name, and also copied the composition of the Complainant's domain name <bohm-paris.com>, which is used for the Complainant's principal retail website.

Panels have held that the use of a domain name for illegitimate activity (here, claimed passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. The record is replete with circumstances that support a finding of bad faith, including: (1) the Respondent's attempt to conceal its identity through the use of repeated nonsensical fragments for its name, address, and contacts; (2) the Respondent's practice of repeatedly using the BOHM trademark on multiple pages of its website as an identifier; (3) the unauthorized copying of photographs taken from the Complainant's website for promotional purposes on the Respondent's website; (4) the copying of the look and feel of the Complainant's retail website; and (5) the failure of the Respondent ever to properly identify itself anywhere on its website. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <bohm-paris.shop> be transferred to the Complainant.

/Christopher J. Pibus/

Christopher J. Pibus

Sole Panelist

Date: December 5, 2024