

ADMINISTRATIVE PANEL DECISION

Björn Borg Brands AB v. xiuzhen zhang
Case No. D2024-4474

1. The Parties

The Complainant is Björn Borg Brands AB, Sweden, represented by Brimondo AB, Sweden.

The Respondent is xiuzhen zhang, China.

2. The Domain Name and Registrar

The disputed domain name <bjornborgfr.shop> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 30, 2024. On October 31, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 31, 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 (Redacted For Privacy, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 4, 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 November 6, 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 November 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 27, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 4, 2024.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on December 9, 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 Swedish apparel fashion company named after the former professional tennis player of the same name. Mr. Björn Borg is a Swedish former world No. 1 tennis player. Between 1974 and 1981, Björn Borg became the first man to win 11 Grand Slam singles titles with six at the French Open and five consecutively at Wimbledon.

The Complainant was founded in 1984 and originally known as World Brand Management (WBM). Since 1997, WBM has held an exclusive license for the prestigious BJÖRN BORG trademark, allowing them to produce, market, and sell Björn Borg products internationally. In 2006, the company acquired full rights to the trademark. Following this acquisition, the company rebranded as Björn Borg in 2017.

The brand is known for its underwear but also offers sport wear, shoes, bags, eyewear, fragrances, and more. The Complainant operates stores in Sweden, Netherlands (Kingdom of the), Finland, and Belgium.

The Complainant also operates online since 2001 with the domain name <bjornborg.com> offering clothing with the Complainant's brand.

The Complainant owns trademark registrations for its BJÖRN BORG , BJORN BORG, and BORG trademarks. In particular, the Complainant is the owner of the following trademarks:

- BJÖRN BORG, Reg. No. 015494909, European Union Intellectual Property Office, for classes 3, 9, 14, 18, 21, 24, 25, 28, and 35, registered on November 2, 2016 and;
- BJÖRN BORG , Reg. No. 996581, Benelux Office for Intellectual Property, for classes 3, 9, 18, 25, 28, and 35, registered on August 12, 2016.

The disputed domain name was registered on June 29, 2022.

The disputed domain name resolves to a website in French language where the same products offered on the Complainant's website are displayed, including references to the Complainant trademark with no disclaimer at all in any part of the website.

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.

According to the Complainant, each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case.

First, the Complainant submits that the disputed domain name is identical or confusingly similar to the trademark registrations of the Complainant.

Second, the Complainant argues that the Respondent has neither rights nor legitimate interests in the disputed domain name.

Third, the Complainant submits that the disputed domain name was registered and is being used 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 prove each of the following elements with respect to each disputed domain name:

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

The burden of proof of each element is borne by the Complainant. The Respondent's default does not by itself mean that the Complainant is deemed to have prevailed. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), [WIPO Overview 3.0](#), section 4.3.

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 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. 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 "fr" 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. 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.

The Panel finds the disputed domain name carries a risk of implied affiliation with the Complainant. The composition of the disputed domain name, comprising the Complainant's trademark in its entirety (being the name of a world-famous tennis player) and the addition of the term "fr" creates a risk of Internet user confusion. In addition, the disputed domain name resolves to a website that displays prominently the trademark and logotype of the Complainant and looks like an authorized online store of the Complainant. 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 Complainant has a clothing trademark based on a well-known tennis player;
- the disputed domain name is confusingly similar to the Complainant's trademark, noting also that the addition of the term "fr" and the French language used on the website are destined to give the impression that the disputed domain name is the online shop of the Complainant in France;
- the Respondent registered the disputed domain name on June 29, 2022, many years after the trademarks of the Complainant were used and registered, and also many years after the Complainant's leading domain name, <bjornborg.com>, which was registered back in 2001.
- the Respondent has not answered the cease and desist letter sent to him.
- the content of the website under the disputed domain name is itself evidence of bad faith since the Respondent is at minimum falsely suggesting being an online store of the Complainant: the disputed domain name resolves to a website that contains similar products as the Complainant stores.

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.

The Panel finds that the registration and use of the confusingly similar disputed domain name to resolve to a website displaying the Complainant's trademarks, without authorization, attracts Internet users, for the Respondent's financial gain, by creating a likelihood of confusion with the Complainant's trademarks.

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 <bjornborgfr.shop> be transferred to the Complainant.

/Pablo A. Palazzi/

Pablo A. Palazzi

Sole Panelist

Date: December 23, 2024