

ADMINISTRATIVE PANEL DECISION

Dixie S.r.l v. Withheld for Privacy ehf / Margaret Culpepper,
Allison Resnick, Sheila McGee
Case No. D2022-0114

1. The Parties

The Complainant is Dixie S.r.l, Italy, represented by Bugnion S.p.A., Italy.

The Respondent is Withheld for Privacy ehf, Iceland / Margaret Culpepper, United States of America (“United States”), Allison Resnick, Spain, Sheila McGee, United States

2. The Domain Name and Registrar

The disputed domain names <dixiecappotti.shop>, <dixieitaly.online> and <dixieoutlet.shop> are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 13, 2022 in respect of the disputed domain names <dixiecappotti.shop> and <dixieitaly.online>. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with those disputed domain names. Also on January 13, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for those disputed domain names which differed from the named Respondent and contact information in the Complaint.

The Center sent an email communication to the Complainant on January 17, 2022 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 January 26, 2022 also adding the disputed domain name <dixieoutlet.shop>. On January 31, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name <dixieoutlet.shop>. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name <dixieoutlet.shop> which differed from the named Respondent and contact information in the Amended Complaint.

The Center sent an email communication to the Complainant on January 31, 2022 providing the additional registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit a further amendment to the Complaint. The Complainant filed a further amendment to the Complaint on February 1, 2022.

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 February 2, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 22, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 23, 2022.

The Center appointed Ian Lowe as the sole panelist in this matter on February 25, 2022. 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.

The Complaint has been filed against multiple respondents. For the reasons set out below, the Panel finds that the three disputed domain names are under common control and that consolidation of the complaints in respect of all disputed domain names would be fair and equitable to all parties as well as providing procedural efficiency.

4. Factual Background

The Complainant is an Italian company established in the late 1980s. Since then, it has been producing, promoting and distributing fashion articles and accessories under the DIXIE mark, particularly ready-to-wear fashion. The Complainant's retail network now includes more than 46 branded stores in Italy and abroad.

The Complainant is the proprietor of a substantial number of trademark registrations around the world in respect of DIXIE, including Italy trademark number 8230553 DIXIE registered on July 17, 2000, European Union trademark number 013083845 DIXIE registered on July 15, 2014, and European Union trademark number 012544251 figurative word mark "Dixie" (the "Figurative Mark") registered on June 17, 2016.

The Complainant operates a website at "www.dixiefashion.com" (the "Complainant's Website") promoting and offering for sale its products.

The disputed domain name <dixiecappotti.shop> was registered on January 4, 2022, the disputed domain name <dixieitaly.online> was registered on December 20, 2021 and the disputed domain name <dixieoutlet.shop> was registered on January 7, 2022. The disputed domain name <dixiecappotti.shop> resolves to a website (the "Respondent's Website") whose webpages all include in the header a virtually identical version of the Complainant's Figurative Mark. The various pages purport to offer for sale the Complainant's products at very substantially discounted prices and comprise numerous copyright images of products copied from the Complainant's Website. The Respondent's website is substantially identical to the Complainant's website. A number of customers have complained to the Complainant that products they "purchased" from the Respondent's Website were never delivered.

The disputed domain names <dixieitaly.online> and <dixieoutlet.shop> do not presently resolve to an active website. However, at the time of filing of the Complaint, <dixieoutlet.shop> resolved to a website identical to the Respondent's Website and, until January 3, 2022, <dixieitaly.online> also resolved to a website identical to the Respondent's Website.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain names are confusingly similar to its DIXIE mark (the "Mark"), that the Respondent has no rights or legitimate interests in respect of the disputed domain names and that the Respondent registered and is using the disputed domain names in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

B. Respondent

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

6. Discussion and Findings

6.1 Consolidation

As noted above, the Complaint is filed against multiple respondents. Although paragraph 4(f) of the Policy does envisage multiple disputes between a Complainant and a Respondent being consolidated, neither the Policy nor the Rules provide expressly for the filing of a single Complaint against multiple respondents. However, section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") sets out the basis on which panels have accepted that a single complaint may be filed against multiple respondents. It notes that "panels look at whether: (i) the domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all parties". Procedural efficiency has also been an important consideration.

In this case, all three disputed domain names comprise the Mark and have resolved to identical websites, which in turn are substantially identical to the Complainant's Website. All three disputed domain names were registered with the same Registrar and the identity of the registrants of the domain names was originally concealed behind Withheld for Privacy ehf. All three registrants have given apparently false addresses in the United States, although one address indicated Kansas (United States) as a State but Spain as a Country. In the circumstances, the Panel is satisfied on the balance of probabilities that all the disputed domain names are under common control and that the Complaint may be consolidated.

6.2 Substantive issues

For this Complaint to succeed in relation to the disputed domain names the Complainant must prove that:

- (i) the disputed domain names are 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 names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has uncontested rights in the Mark, both by virtue of its trademark registrations and as a result of the goodwill and reputation acquired through its use of the Mark over many years. Ignoring the generic Top-Level Domain ("gTLD") ".shop", the disputed domain name <dixiecappotti.shop> comprises the entirety of the Mark, together with the word "cappotti", the Italian language word for "coats". The disputed domain name <dixieoutlet.shop> comprises the entirety of the Mark, together with the word "outlet". In the view of the Panel, the addition of these terms does not prevent a finding of confusing similarity between the disputed domain names and the Mark.

Again ignoring the gTLD “.online”, the disputed domain name <dixieitaly.online> comprises the entirety of the Mark together with the word “italy”. The Panel does not consider that the addition of this geographic term prevents a finding of confusing similarity between the disputed domain name and the Mark.

Accordingly, the Panel finds that all three disputed domain names are confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has made out a strong *prima facie* case that the Respondent could have no rights or legitimate interests in respect of the disputed domain names. The Respondent has used the disputed domain names not in connection with a *bona fide* offering of goods or services, but for a website purporting to offer what claim to be the Complainant’s products. The Panel notes that the websites were offering products for sale at what purport to be very substantially discounted prices, which is consistent with the products in question either being counterfeit or simply being offered for sale fraudulently with no intention of supplying the goods. There is no suggestion that the Respondent has ever been known by the disputed domain names (section 2.3 of the [WIPO Overview 3.0](#)). The Respondent has chosen not to respond to the Complaint or to take any steps to counter the *prima facie* case established by the Complainant.

In the circumstances, the Panel finds that the Respondent does not have any rights or legitimate interests in respect of the disputed domain names.

C. Registered and Used in Bad Faith

Since the Respondent has used the disputed domain names for websites selling what purport to be the Complainant’s goods, the Panel is in no doubt that the Respondent had the Complainant and its rights in the Mark in mind when it registered the disputed domain names. The pages of the Respondent’s Website incorporated a substantially identical copy of the Complainant’s Figurative Mark and numerous photographs taken from the Complainant’s website. The Complainant’s evidence is that a number of customers complained to the Complainant that they had not received goods they had paid for at the Respondent’s Website and one at least has filed a complaint with the Italian police. In the absence of any response by the Respondent, the Panel has no reason to doubt that the Respondent has used its websites to defraud Internet users or was offering what may be counterfeit goods of the Complainant on the websites, particularly given the very substantially discounted prices at which the websites were purporting to sell the goods. In the Panel’s view, the use of domain names for such activity, clearly with a view to commercial gain, amounts to paradigm bad faith registration and use for the purposes of the Policy. The fact that since the Complaint was filed two of the disputed domain names have become inactive does not obviate a finding of bad faith use.

Accordingly, the Panel finds that the disputed domain names have been registered and are being used in bad faith.

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 names, <dixiecappotti.shop>, <dixieitaly.online> and <dixieoutlet.shop> be transferred to the Complainant.

/Ian Lowe/

Ian Lowe

Sole Panelist

Date: March 11, 2022