

ADMINISTRATIVE PANEL DECISION

Euomarket Designs, Inc. d/b/a Crate & Barrel v. Ma Zhong Qing Case No. D2022-0923

1. The Parties

The Complainant is Euomarket Designs, Inc. d/b/a Crate & Barrel, United States of America (“United States”), represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Ma Zhong Qing, China.

2. The Domain Name and Registrar

The disputed domain name <crateandbarrel-outlet.com> is registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 16, 2022. On March 16, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 17, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on March 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 March 22, 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 March 23, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 12, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 13, 2022.

The Center appointed Philippe Gilliéron as the sole panelist in this matter on April 19, 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.

4. Factual Background

The Complainant is a global company active in the sale of unique home furnishings and home décor items. It currently operates in 12 countries across 3 continents and counts more than 100 company-owned store locations and franchise operations. The Complainant employs approximately 8,300 people. Its print catalogue reaches of millions of customers worldwide.

The Complainant owns numerous trademarks consisting of the terms “crate&barrel” on a worldwide basis, including the following ones:

Trademark	Jurisdiction	Registration Date	Reg. Number	Int. Class
CRATE&BARREL	China	March 21, 2002	1735396	35
CRATE AND BARREL	United States	December 15, 1987	1469515	42
CRATE&BARREL	United States	December 15, 1987	1469514	42
CRATE&BARREL	United States	November 15, 1988	1512732	21
CRATE & BARREL	United States	November 24, 1998	2205822	20
CRATE & BARREL	European Union	November 6, 1998	000102145	20, 21, 24
CRATE & BARREL	European Union	November 30, 2000	001337427	7, 8, 11, 27

All these trademarks were registered and enjoy a priority date in comparison with the disputed domain name <crateandbarrel-outlet.com> that was registered by the Respondent on December 23, 2021.

The Complainant further carries out its online activities through its website “www.crateandbarrel.com”. According to Alexa, the Complainant’s primary domain name would rank of 917 in the United States and 3,672 globally. In February 2022, it received more than 8 million unique visitors.

The disputed domain name redirected to the Complainant’s official website, and it currently redirects users to a third-party furniture store, more precisely an outlet store for discounted furniture.

5. Parties’ Contentions

A. Complainant

The Complainant first considers that the disputed domain name is similar to its trademark CRATE&BARREL and that the mere addition of the term “outlet” increases the resulting likelihood of confusion as the Complainant manages numerous outlet stores, notably in the United States.

The Complainant then affirms that the Respondent does not have any right nor any legitimate interest in the disputed domain name. The Respondent is neither sponsored nor affiliated with the Complainant in any way, nor is it known under that name. Furthermore, the Complainant has neither licensed nor authorized the Respondent to exploit its trademarks. The redirection of Internet users either to the Complainant’s official website or to the one of a third party selling discounted furniture cannot be considered a *bona fide* offering of goods and services.

Taking into account the Complainant’s international reputation, the Complainant argues that the Respondent knew or at least should have known of the existence of the Complainant’s trademarks. In redirecting users initially to the Complainant’s official website and later to a competitor, the Respondent is obviously using the disputed domain name in bad faith in an attempt to disrupt the Complainant’s business. This is all the more true than the Respondent currently holds several other domain names consisting of well-known trademarks, which demonstrates a pattern of conduct.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to “[...] decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

Pursuant to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements to obtain an order that the disputed domain name should be cancelled or transferred:

- (i) The disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or a service mark in which the Complainant has rights; and
- (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

According to the Policy, paragraph 4(a)(i), the Complainant has to prove that the disputed domain name is identical or confusingly similar to a trademark or a service mark in which the Complainant has rights.

The Complainant is the holder of numerous trademarks throughout the world for CRATE&BARREL. UDRP panels widely agree that incorporating a trademark into a domain name can be sufficient to establish that the domain name is identical or confusingly similar to a registered trademark for purpose of the Policy (see, e.g., *Uniroyal Engineered Products, Inc. v. Nauga Network Services*, WIPO Case No. [D2000-0503](#); *Thaigem Global Marketing Limited v. Sanchai Aree*, WIPO Case No. [D2002-0358](#); and *F. Hoffmann-La Roche AG v. Relish Entreprises*, WIPO Case No. [D2007-1629](#)).

This is all the more true when the inserted trademark is the dominant part of the disputed domain name, and that the added elements would not prevent a finding of confusing similarity (see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, “[WIPO Overview 3.0](#)”).

Such happens to be the case here. The addition of a term such as “-outlet” does not prevent a finding of confusing similarity (see, among others: *Playboy Entreprises International, Inc. v. Zeynel Demirtas*, WIPO Case No. [D2007-0768](#); *Inter-IKEA Systems B.V. v. Evezon Co. Ltd.*, WIPO Case No. [D2000-0437](#); *Dell Computer Corporation v. MTO C.A. and Diabetes Education Long Life*, WIPO Case No. [D2002-0363](#)).

As a result, the Panel considers paragraph 4(a)(i) of the Policy to be satisfied.

B. Rights or Legitimate Interests

According to the Policy, paragraph 4(a)(ii), the Complainant has to demonstrate that the Respondent has no rights or legitimate interests in the disputed domain name.

As the prior UDRP panel stated in *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#), demonstrating that a respondent has no rights or legitimate interests in a domain name “would require complainant to prove a negative, a difficult, if not impossible, task”. Thus, in that decision, the panel opined that “[w]here a complainant has asserted that the respondent has no rights or legitimate interests in respect of the domain name, it is incumbent upon the respondent to come forward with concrete evidence rebutting this assertion”. Following that decision, subsequent UDRP panels developed a consensus view that it is

deemed sufficient for a complainant to make a *prima facie* case that the respondent lacks rights or legitimate interests in a domain name. Once a *prima facie* case has been made, it is the respondent's burden to demonstrate its rights or legitimate interests. If it fails to do so, the complainant is deemed to have satisfied to paragraph 4(a)(ii) of the Policy (see, e.g., section 2.1 of the [WIPO Overview 3.0](#)).

In the present case the Complainant is the owner of numerous CRATE&BARREL trademarks. The Complainant has no business or other relationships with the Respondent.

The Complainant thus has made a *prima facie* case showing that the Respondent has no rights or legitimate interests in the disputed domain name.

Considering the absence of a Response and the fact that the Respondent is neither commonly known by the disputed domain name, nor has made a legitimate noncommercial or fair use of the disputed domain name, the Panel finds that the Respondent has failed to demonstrate any rights or legitimate interests in the disputed domain name.

Consequently, in light of the above, the Panel considers paragraph 4(a)(ii) of the Policy to be fulfilled.

C. Registered and Used in Bad Faith

For a complaint to succeed, a panel must be satisfied that a domain name has been registered and is being used in bad faith (Policy, paragraph 4(a)(iii)).

Bad faith requires the Respondent to be aware of the Complainant's trademarks. In the present case, the Complainant is the owner of numerous CRATE&BARREL trademarks, including in China where the Respondent is located. There is no doubt in the Panel's opinion that these marks enjoy a wide reputation.

Considering the worldwide reputation of these marks, it is inconceivable that the Respondent would have chosen and registered the disputed domain name without having been aware of the Complainant's trademarks. This is further supported by the fact that the disputed domain name initially redirected users to the Complainant's official website.

Given the Respondent's use of the disputed domain name which currently redirects users to a competitor's website selling discounted furniture, there is no doubt in the Panel's opinion that the Respondent deliberately tries to benefit from the Complainant's trademark to attract Internet users to a third party's website, at a minimum to disrupt the Complainant's business.

It is to be remembered that prior UDRP panels have considered that a presumption of bad faith may be created solely through the registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark (section 3.1.4 of the [WIPO Overview 3.0](#)).

Consequently, the Panel finds that the disputed domain name has been registered and is being used in bad faith under the paragraph 4(a)(iii) 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 <crateandbarrel-outlet.com> be transferred to the Complainant.

/Philippe Gilliéron/

Philippe Gilliéron

Sole Panelist

Date: April 26, 2022