

ADMINISTRATIVE PANEL DECISION

Julius Blum GmbH v. Onlineblum.com, LLC, Sisi Zhou
Case No. D2023-0754

1. The Parties

The Complainant is Julius Blum GmbH, Austria, represented by Torggler & Hofmann Patentanwälte GmbH & Co KG, Austria.

The Respondents are Onlineblum.com, LLC, United States, and Sisi Zhou, China

2. The Domain Name and Registrar

The disputed domain name <onlineblum.com> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 20, 2023. On February 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 22, 2023, 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 (Onlineblum.com, LLC), and from the Respondent identified by reference to Annex 1 to the Complaint (Whois Agent, Domain Protection Services, Inc.), and contact information in the Complaint. The Center sent an email communication to the Complainant on February 23, 2023, 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 February 27, 2023, adding the Registrar-disclosed registrant (Sisi Zhou) as a Respondent.

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 February 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 21, 2023.

The Center appointed Tuukka Airaksinen as the sole panelist in this matter on March 23, 2023. 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 was founded in 1952 and is one of the largest manufacturers of furniture fittings in the world. The Complainant employs almost 9,500 people all over the world. The Complainant is the owner of multiple trademark registrations for BLUM, including, for example, International Registration No. 996 626 registered on November 18, 2008.

The disputed domain name was registered on October 10, 2022, and at the time of this decision does not resolve to an active website. However, the Complainant claims that the disputed domain name resolved to a website selling hardware products such as furniture fittings in competition with those offered by the Complainant.

5. Parties' Contentions

A. Complainant

The disputed domain name is confusingly similar to the Complainant's trademark, which is wholly included in it. The addition of the descriptive prefix "online" does not eliminate a likelihood of confusion with the Complainant's trademark.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has never licensed or otherwise authorized the Respondent to register or use its trademark as a domain name. A reseller may not make use of the trademark in a way that is likely to confuse consumers as to an affiliation between the trademark holder and the reseller.

The descriptive indicator "online" in the disputed domain name suggests an affiliation with the Complainant and customers would be expecting to contact the Complainant. Also, furniture fittings made by competitors of the Complainant are offered at the Respondent's website.

The Respondent has registered and is using the disputed domain name in bad faith and with the fraudulent intent to lure Internet users into the belief that the Respondent is, or is affiliated with, the Complainant. When registering the disputed domain name, the Respondent must have been aware of the Complainant which has been doing business for over 50 years. The Respondent is misrepresenting an affiliation with the Complainant when none in fact exists.

B. Respondent

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

6. Discussion and Findings

6.1. Respondent Identity

The Complaint was filed against "Onlineblum.com, LLC", which is the entity identified on the website to which the disputed domain name previously resolved, according to the Complainant. Upon the Registrar's disclosure of "Sisi Zhou" as the name belonging to the registrant of the disputed domain name, the Complainant added said information to the Complaint as a Respondent. In view of the original Complaint's

identification of the claimed website operator, to which the ultimate underlying registrant as disclosed by the Registrar was added as Respondent, the Panel will treat both “Onlineblum.com, LLC” and “Sisi Zhou” as the “Respondent” and will collectively hereinafter refer to them as the “Respondent”.

Paragraph 10(e) of the UDRP Rules grants a panel the power to consolidate multiple domain name disputes. At the same time, paragraph 3(c) of the UDRP Rules provides that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder. Further to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.11.2, “[w]here a complaint is filed against multiple respondents, 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 would also underpin panel consideration of such a consolidation scenario”. Given that the website operator “Onlineblum.com, LLC” is likely fraudulent information used by the Respondent to further associate with and legitimize the registration of the disputed domain name as if in connection with the Complainant, the Panel finds that the consolidation of the Complaint against the Respondent is fair and equitable to all Parties.

6.2 Substantive Merits

In order to obtain the transfer of a domain name, a complainant must prove the three elements of paragraph 4(a) of the Policy, regardless of whether the respondent files a response to the complaint or not. The first element is that the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights. The second element a complainant must prove is that the respondent has no rights or legitimate interests in respect of the domain name. The third element a complainant must establish is that the domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires that the Complainant establish that the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights. Consequently, the Complainant must prove that it has rights to a trademark, and that the disputed domain names are identical or confusingly similar to this trademark.

According to section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), “[t]he applicable Top Level Domain (‘TLD’) in a domain name (e.g., ‘.com’, ‘.club’, ‘.nyc’) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test”.

Furthermore, “where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements”. See section 1.8 of the [WIPO Overview 3.0](#).

The disputed domain name is confusingly similar to the Complainant’s trademark as it includes the Complainant’s trademark in its entirety combined with the word “online”. This does not prevent confusing similarity between the Complainant’s trademark and the disputed domain names.

This means that the disputed domain name is confusingly similar with the Complainant’s trademark and hence the first element of the Policy has been fulfilled.

B. Rights or Legitimate Interests

Paragraph 4(a)(ii) of the Policy requires that the Complainant establish that the Respondent has no rights or legitimate interests to the disputed domain names.

It is widely accepted among UDRP panels that once a complainant has made a *prima facie* showing indicating the absence of the respondent's rights or legitimate interests in a disputed domain name the burden of proof shifts to the respondent to come forward with evidence of such rights or legitimate interests. If the respondent fails to do so, the complainant is deemed to have satisfied the second element of the Policy. See, e.g., *Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#), and section 2.1 of the [WIPO Overview 3.0](#).

The Complainant has credibly submitted that the Respondent is neither affiliated with the Complainant in any way nor has it been authorized by the Complainant to use and register the disputed domain name, that the Respondent has no rights or legitimate interests in the disputed domain name, and that the Respondent has not made and is not making a legitimate noncommercial or fair use of the disputed domain name and is not commonly known by the disputed domain name in accordance with paragraph 4(c)(ii) of the Policy.

Moreover, the Panel finds that the nature of the disputed domain name carries a risk of implied affiliation with the Complainant's trademark. See section 2.5.1 of the [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the Complainant has made a *prima facie* case that has not been rebutted by the Respondent. Considering the Panel's findings below, the Panel finds that there are no other circumstances that provide the Respondent with any rights or legitimate interests in the disputed domain name. Therefore, the Panel finds that the second element of the Policy is fulfilled.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the Complainant establish that the disputed domain names have been registered and are being used in bad faith. Paragraph 4(b) of the Policy provides that the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

"(i) circumstances indicating that [the respondent has] registered or has acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of [the respondent's] documented out-of-pocket costs directly related to the domain name; or

(ii) [the respondent has] registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that [the respondent has] engaged in a pattern of such conduct; or

(iii) [the respondent has] registered the domain name primarily for the purpose of disrupting the business or competitor; or

(iv) by using the domain name, [the respondent has] intentionally attempted 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."

Considering that the Complainant has been using and registering its trademark for over 50 years before the disputed domain name was registered, and taking into account the activity to which the disputed domain name has been put, the Respondent must have been aware of the Complainant and its trademark when registering the disputed domain names. See section 3.1.4 of the [WIPO Overview 3.0](#). The information included in the Complaint as to the website operator previously identified on the website to which the dispute domain name resolved to (Onlineblum.com, LLC), further reinforces the Panel's finding that the Respondent purposefully registered the disputed domain name with an intent to associate it with and target the Complainant.

The disputed domain name is currently not in use. UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or well-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. This is particularly so with domain names incorporating the mark plus a descriptive term, as in this case. See section 3.1.4 of the [WIPO Overview 3.0](#).

The disputed domain name is not in active use, see *e.g.*, *Accenture Global Services Limited v. Domain eRegistration*, WIPO Case No. [D2018-1994](#). This, however, does not prevent the finding of bad faith under the doctrine of passive holding. See section 3.3 of [WIPO Overview 3.0](#).

Considering that the disputed domain name has been used for selling goods competing with the Complainant's goods, the Respondent has not responded to the Complaint, the Respondent has used a privacy protection service to conceal its identity, there are no obvious good faith or legitimate uses to which the disputed domain name may be put, the Panel considers, on balance, that the disputed domain name has been registered and is being used in bad faith.

Therefore, the Panel finds that the third element of the Policy is fulfilled.

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, <onlineblum.com>, be transferred to the Complainant.

/Tuukka Airaksinen/

Tuukka Airaksinen

Sole Panelist

Date: April 11, 2023