

ADMINISTRATIVE PANEL DECISION

DK Company Vejle A/S v. Blend Sports Ltd.

Case No. D2023-2100

1. The Parties

The Complainant is DK Company Vejle A/S, Denmark, represented by Patrade A/S, Denmark.

The Respondent is Blend Sports Pvt Ltd., Pakistan.

2. The Domain Name and Registrar

The disputed domain name <blendsports.com> is registered with Epik, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 11, 2023. On May 12, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 15, 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 (Privacy Administrator, Anonymize, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 15, 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 amended Complaint on May 17, 2023.

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 May 22, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 11, 2023. The Response was filed with the Center on May 23, 2023. The Respondent filed further email replies and annexes with the Center on May 24-26, 2023, May 30-31, 2023, June 7, 2023, and June 9, 2023.

The Center appointed Andrew D. S. Lothian as the sole panelist in this matter on June 9, 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 appears to be a Danish registered company. According to the Complainant, it is one of the leading manufacturers of fashion within the European Union, and its products are present all over Europe, the United States of America (“United States”), the United Kingdom, Canada, Australia, Brazil, and the United Arab Emirates (“UAE”). The Complainant’s official website is at “www.blendcompany.com”. The Complainant provides no timeline of its operations nor evidence of its activities beyond a screenshot of its said official website. The screenshot shows that the said website promotes the Complainant’s clothing range under the trademark noted below and provides access to an online shop. The Complainant also produces three “Google” searches for the words “blend clothing” conducted by virtual private network in the United States of America, the United Arab Emirates, and India, which each show the Complainant’s said website as the top result.

The Complainant is the owner of a range of registered trademarks for the figurative mark consisting of the small letter “b” in white against a black rhombus coupled with the word “BLEND” in capital letters. The earliest such mark for which full details are supplied by the Complainant is European Union Registered Trademark Number 4641511, registered on October 3, 2006, in Classes 9, 18, and 25. Furthermore, although not specifically cited by the Complainant in these proceedings, the Panel notes from the Complainant’s cease and desist letter that it also owns Canadian Trademark Number TMA597502 for the word mark BLEND, filed on December 6, 2001 and registered on December 15, 2003, in respect of various items of clothing and clothing accessories.

According to Whois records, the disputed domain name was registered on June 21, 2016. The website associated with the disputed domain name refers to a business named Blend Sports which appears to provide sportswear, gloves, and bags. The Respondent, Blend Sports Pvt. Ltd. states that it is the owner and operator of the said website and the registrant of the disputed domain name. It also asserts that it is engaged in contract manufacturing of bespoke sports gloves, sportswear, and MMA fight gear

On February 15, 2023, the Complainant’s representatives wrote to the Respondent regarding the disputed domain name. The letter contained images said to be used by the Respondent on the website associated with the disputed domain name and on its various social media pages. These images were of sporting gloves with the legend “B BLEND SPORTS”. The letter also identified the fact that the Respondent’s said website included the option of choosing languages including those used in countries where the Complainant possessed prior rights. The letter requested that the Respondent cease all use of the mark BLEND in relation to sports clothing, including gloves, in some 26 jurisdictions in which the Complainant maintained that it possessed rights. The list of jurisdictions did not include Pakistan, where the Respondent is based. The letter sought an undertaking from the Respondent not to use “BLEND” or confusingly similar signs in relation to clothing in the various jurisdictions, to acknowledge the Complainant’s respective rights, to inform the Complainant of its sales from 2021-2023 and to pay a lump sum to the Complainant calculated on the basis of such sales, failing which the Complainant would proceed to litigation.

On April 24, 2023, the managing director of the Respondent emailed the Complainant’s representatives noting that it had received the said letter of February 15, 2023, explaining that the Respondent was a legal entity established as a sports goods contract manufacturer in Sialkot, Pakistan, asserting that it used “Blend Sports” as a company identifier and did not use or put “Blend Sports” label on manufactured goods, denying trademark infringement, and asserting that it did not sell goods using “BLEND” anywhere in the world. The Respondent therefore rejected the Complainant’s claims.

The Respondent’s managing director has produced his taxpayer profile. This indicates that the profile was first registered on April 13, 2001 and was registered for sales tax with effect from September 18, 2001. Two businesses are linked to this profile, namely the Respondent, listed in connection with the manufacture of sports goods, and another business engaged in the manufacture of clothing.

5. Parties' Contentions

A. Complainant

In summary, the Complainant contends as follows:

Identical or Confusingly Similar

Three of the Complainant's figurative marks are invoked, including that listed in the factual background section above. The jurisdiction where the trademark is valid is not relevant to panel assessment under this element. The mark is used in relation to the sale of clothing items, as seen on the Complainant's official website. The disputed domain name is confusingly similar to the Complainant's BLEND trademark. The combination of this mark with the word "sports" does not dispel the confusing similarity.

Rights or Legitimate Interests

The Respondent is not affiliated with the Complainant and was not authorized by the Complainant to register and use its trademark. The disputed domain name was registered on June 21, 2016, and the Respondent has not registered a trademark in relation to the use of "Blend Sports" on its website. The Complainant's rights predate the registration of the disputed domain name by more than ten years. The Respondent is required to investigate and ensure that the disputed domain name does not infringe already existing registered trademarks.

The Respondent's email reply to the Complainant's email of April 22, 2023 discloses no rights or legitimate interests in the disputed domain name. The Respondent must be commonly known by the relevant moniker, apart from the disputed domain name, yet claims to use the mark "Blend" only in relation to the disputed domain name and not to its sold goods.

Registered and Used in Bad Faith

The disputed domain name is identical to the Complainant's registered trademark rights. Such a domain name must be considered to carry a high risk of implied affiliation, especially if being used for identical services, such as for clothing items in this case. It must be considered identical or at the very least highly similar to the services registered under the Complainant's trademark.

Considering that the Complainant had their trademark registered in 2005 and again in 2015, and is well-known around the globe by its trademark, it is reasonable to assume that the Respondent had knowledge of the Complainant and its use of BLEND at the time of registration of the disputed domain name. It is therefore highly unlikely that the Respondent was unaware of the Complainant's existence and activities.

If the term "blend clothing" is typed into the Google search engine, the first hits in the United States, UAE and India are all for the Complainant's official website. It is therefore highly unlikely that the Respondent selected the disputed domain name without knowledge of the Complainant's said mark. Panels under the Policy have found that respondents who (deliberately) fail to search and/or screen registrations against available online databases would be responsible for any resulting abusive registrations under the concept of willful blindness.

Although the Respondent claimed not to use the disputed domain name on its products, "Blend Sports" appears on the gloves for sale on its website. This uses the same font as in the Complainant's registered trademark.

The Respondent's use of the disputed domain name, being a direct competitor of the Complainant, may cause a likelihood of confusion with the Complainant's mark. It is common to use sub-brands to distinguish various lines and it is conceivable that the relevant public may regard the goods designated by the conflicting marks as having the same origin, for example, a new range of sports goods from the "BLEND" brand.

Following receipt of the Complainant's cease and desist notice, the Respondent continued to use the mark and such use had to be in bad faith due to its knowledge of the risk of confusion.

B. Respondent

The Respondent filed a formal Response, which was followed by various supplemental emails and additional documentation. As discussed below, insofar as the emails and documentation were received prior to the due date for the Response, the Panel has decided to admit them. The following summary consists of the Panel's attempt to combine the various submissions without including repeated elements. If any particular submission has not been noted below, this does not mean that it has not been seen and considered by the Panel.

In summary, the Respondent contends as follows:

Identical or Confusingly Similar

The disputed domain name is not identical to the Complainant's BLEND trademark. "Blend" cannot be used exclusively by the Complainant or any other entity. It is commonly used in various industries including fashion, food, and sports, as its use in multiple different third party domain names illustrates. The Respondent's offerings within the sporting goods industry are unique, distinct, and bear no similarity or resemblance to the Complainant's product line. Given this difference, the Complainant's allegations should be assessed objectively. The Complainant's trademark does not extend to the term "Blend Sports".

Rights or Legitimate Interests

The Respondent possesses both rights and legitimate interests in the disputed domain name. The Complainant's trademark rights fall under Class 25, general clothing, while the Respondent's fall under Class 28, sports goods.

The disputed domain name is an integral component of the Respondent's online presence and platform to showcase its manufacturing capabilities. The Respondent has diverse product offerings catering to distinct market segments. The Respondent adheres to industry standards. The disputed domain name matches the Respondent's corporate name. The examples in paragraph 4(c) of the Policy support the Respondent's position. Prior to receiving notice of this dispute, there is evidence of the Respondent's use of the disputed domain name in connection with a *bona fide* offering of goods or services, namely sports goods manufacturing services. This use, as a contract manufacturer of customized sports goods, does not infringe upon the Complainant's trademark in any way. The Respondent is commonly known by the disputed domain name, although this is not a strict requirement for establishing rights or legitimate interests. The use of the disputed domain name serves legitimate business purposes and there is no intent to mislead consumers or tarnish the Complainant's trademark. The Respondent has not registered a trademark specifically related to the use of "Blend Sports". This is not a requirement for establishing legitimate interests in a domain name.

The managing director and CEO of the Respondent is able to demonstrate his longstanding presence in the industry by way of his personal income tax profile, which shows his business experience dating back to April 13, 2001. The Complainant and its brand did not exist in 2001 when the managing director of the Respondent embarked on his entrepreneurial journey.

Registered and Used in Bad Faith

The disputed domain name was registered on June 21, 2016, when the Respondent was unaware of the Complainant's trademark rights. The Respondent, specializing in contract manufacturing of customized sports goods, registered the disputed domain name with the genuine intention of promoting its business activities and not with any intent to infringe upon the Complainant's trademark rights or cause confusion among consumers. The Respondent's business presence in the sports goods industry predates the Complainant's trademark registrations in 2005 and 2015, demonstrated by the taxpayer profile. The

Complainant and its trademark "BLEND" did not exist in 2001 when the Respondent embarked on the entrepreneurial journey. The Respondent denies any implied affiliation between the Parties by the use of the disputed domain name or any conduct exploiting the Complainant's mark or misleading consumers.

While searches for "blend clothing" may disclose the Complainant's interests, the Respondent operates in sports goods manufacturing, distinct from the Complainant's focus on fashion and clothing. No confusion is caused. The search results do not prove that the Respondent had specific knowledge of the Complainant's use of the mark in relation to the sale of clothing items, while the Respondent's business activities and the distinctive nature of its offerings suggest that any similarity is coincidental rather than indicative of bad faith.

With regard to the use of "Blend Sports" on the gloves for sale on the Respondent's website, "Blend" cannot be used exclusively by the Complainant or any other entity, and the Respondent's use of the term "Sports" is directly related to sport-related products and does not necessarily imply an intention to deceive or cause confusion with the Complainant's mark. It is reasonable to use descriptive terms in connection with the specific goods being sold and the fonts used on the gloves cannot be considered conclusive evidence of bad faith. The Complainant's assertion that the Respondent continued to use the font is untrue. The Respondent was unaware of the Complainant's trademark rights for the specific font. The Respondent took prompt steps to rectify the situation when the matter came to the Respondent's attention.

Reverse Domain Name Hijacking

Considering the weaknesses in the complaint and the lack of supporting evidence, there are grounds to conclude that the filing of this Complaint constitutes reverse domain name hijacking. The Complainant's allegations rely heavily on speculation and fail to substantiate a valid claim under the Policy.

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied:

- (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.

A. Preliminary Matter: Respondent's supplemental filings

As noted above, the Respondent filed a formal Response and a number of additional submissions by email before the due date for the filing of the Response. Mindful of its obligation to ensure that each Party is given a fair opportunity to present its case in terms of paragraph 10(b) of the Rules, and that the Respondent is not professionally represented, the Panel has decided to combine the Respondent's various submissions, excluding repetitions, and to treat these as a single Response. Likewise, the Panel will treat the documents submitted as a single set of annexes. The Panel does not identify any prejudice to the Complainant arising from it having taken this particular course of action.

The Panel is of the view, generally speaking, that the better course of action is for a respondent to confine itself to a single response filed before the due date as contemplated by the Rules. This obviates the need for a panel to scrutinize multiple submissions, combining new relevant matters and removing duplicates as the Panel has had to do here. If a respondent's thinking is developing or new materials are coming to light over the period concerned, it would be best to save these for a single response which could be filed nearer to the expiration of the relevant due date.

The Respondent's additional submissions post-dating the due date for filing the Response have not been considered. In any event, the majority of these consist of the Respondent checking with the Center that its earlier submissions had been received and would be considered by the Panel.

B. Identical or Confusingly Similar

The Complainant has demonstrated to the Panel's satisfaction that it is the owner of the registered trademark cited in the factual background section above. The Complainant's European Union mark is figurative in nature, containing a graphical element and a word element. Section 1.10 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") sets out how figurative marks are generally treated in the assessment of identity or confusing similarity under the Policy, noting that figurative or stylized elements are largely disregarded to the extent that they would be incapable of representation in domain names. Disregarding the figurative element in the present case leaves the Panel with the word elements B BLEND for comparison with the disputed domain name. Equally, the Complainant's Canadian trademark for the word BLEND is a candidate for comparison and has no figurative elements requiring further consideration.

The generic Top-Level Domain ("gTLD") in the disputed domain name (".com") may be disregarded for the purposes of the comparison exercise on the grounds that this is required for technical reasons only. The comparison therefore shows that the single letter "B" is omitted from the disputed domain name (in the case of comparison with the Complainant's European Union trademark only) while the word "blend" is included in its entirety together with an additional word, "sports". As section 1.8 of the [WIPO Overview 3.0](#) notes, 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. Here, the bulk of the Complainant's trademark is recognizable, whether the candidate for comparison is the Complainant's B BLEND figurative mark or its BLEND word mark.

The Respondent's submissions on this particular topic misunderstand the test that is applied under the first element of the Policy. The test typically involves a side-by-side comparison of the domain name concerned and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. Issues such as the strength of the complainant's mark or the respondent's intent to provide its own legitimate offering of goods or services without trading off the complainant's reputation are decided under the second and third elements (see section 1.7 of the [WIPO Overview 3.0](#)).

In all of these circumstances, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark and that the Complainant has carried its burden in terms of paragraph 4(a)(i) of the Policy.

C. Rights or Legitimate Interests

The requirements of paragraph 4(a) of the Policy are conjunctive. A consequence of this is that failure on the part of a complainant to demonstrate one element of the Policy will result in failure of the complaint in its entirety. Accordingly, in light of the Panel's finding in connection with registration and use in bad faith, it is unnecessary for the Panel to address the issue of the Respondent's rights or legitimate interests in the disputed domain name.

D. Registered and Used in Bad Faith

To succeed on this element, the Complainant must establish both that the Respondent registered the disputed domain name in bad faith, and that the Respondent has used the disputed domain name in bad faith. Failure to prove either or both of these matters on the balance of probabilities would result in failure of the Complaint. In order to demonstrate registration in bad faith, the Complainant typically must establish that the Respondent was aware of the Complainant's trademark and that it intended to target this unfairly at the time when the disputed domain name was registered.

The disputed domain name was registered on June 21, 2016. The Complainant has not brought forth any direct evidence of the probable state of the Respondent's knowledge as at that date. The Panel must therefore consider whether it is more probable than not, based upon the factual matrix in this case, that the Respondent was aware of the Complainant's rights and intended to target these when it registered the disputed domain name.

The Complainant asserts that it is a leading manufacturer of sportswear and that it is well-known around the globe by its trademark. It does not provide any evidence supporting these assertions. The Complainant goes on to state that its products are present in certain major markets. However, notably, it does not state that its products are present in the country where the Respondent is based. The Complainant's earliest registered trademark identified by the Panel dates from 2003, indicating that it is of a longstanding nature, but this on its own tells the Panel nothing about the notoriety of that mark (particularly to someone in the position of the Respondent and based in the Respondent's location) in 2016. For example, it is possible that the Complainant might have had a significant Internet presence which could have come to the attention of the Respondent by that date, even if it was not present in the relevant market or held no registered trademark in the Respondent's location. In other words, the fact that the Complainant is or was not physically present in the Respondent's location is not necessarily conclusive of the issue. However, the Complainant has provided the Panel with no information as to the extent or reach of its online or offline activities at the material time.

Evidentially speaking, the Complainant restricts itself to the provision of three Google searches, which it states were performed via virtual private networks from servers in the United States, UAE, and India. These tell the Panel that the Complainant has a high search ranking today in respect of the searches concerned, and with regard to the geographic locations involved. However, the searches are not time-restricted and do not tell the Panel anything regarding the position in 2016 when the disputed domain name was registered. Nor do they tell the Panel anything about the Complainant's search ranking in the Respondent's geographic location, either now or in 2016.

The Complainant asserts that before registering the disputed domain name the Respondent was required to investigate and ensure that the disputed domain name would not infringe already existing registered trademarks. However, there was no duty on the Respondent to perform any specific investigations in any particular jurisdiction and as said above, there is no evidence presented that would credibly support the notion that had the Respondent conducted a cursory Internet search from Pakistan, where the Respondent is located, the Respondent would have become aware of the Complainant. The Complainant's assertion here attempts to apply the "wilfull blindness" concept to the case. The concept is sometimes brought to bear on cases involving domainers undertaking bulk purchases or automated registrations, or to those who (deliberately) fail to search and/or screen registrations against available online databases, depending on the facts and circumstances of the case (see section 3.2.3 of the [WIPO Overview 3.0](#)). In the Panel's opinion, this concept would not normally be applied to a registrant in the position of the Respondent and there is no suggestion from the Complainant's limited evidence that the Respondent must deliberately have turned a blind eye to the Complainant's rights.

For its part, the Respondent unequivocally states that it did not have knowledge of the Complainant or its rights when it registered the disputed domain name. On the basis of the present record, this is broadly a credible claim. The Respondent asserts by implication that its choice of business name and of the disputed domain name, and their similarity to the words in the Complainant's figurative mark, was a mere coincidence. This is not entirely implausible given that the disputed domain name consists of two ordinary words in the English language, and that the word "blend" in particular is frequently used to describe attributes of businesses or products consisting of complimentary elements, while the word "sports" refers to the products manufactured by the Respondent.

The Panel nevertheless is concerned by the Respondent's apparent acceptance of the Complainant's proposition that the font used for the wording on the gloves on the Respondent's website appears to be identical to the font used in the Complainant's mark. For the Respondent's case to be internally consistent, this too would require to be a coincidence, or at least the typeface would have to have been adopted by the

Respondent later than the date when the disputed domain name was registered. In the absence of any more detailed evidence from the Complainant, such as the name of the typeface concerned, its particular features, a discussion of the similarities, and suitably clear examples for comparison, the Panel is reluctant to condemn the Respondent on this basis alone. To the Panel's eyes, the typeface used is not especially distinctive or stylized, consisting as it does of fairly plain bold capitalized type with a very slight italic slant.

In any event, if the font in the logo on the Complainant's website is compared to the gloves on that of the Respondent, as the Complainant asks the Panel to do, there are further notable differences between the gloves and the Complainant's 2006 registered figurative mark. The Complainant's website logo has more of a "stretched" appearance, the letters are thicker, the letter "N" has a flatter top, and the letters "B" and "D" are squarer. Furthermore, in all examples of the Complainant's figurative mark and logo, the Complainant uses a lowercase "b" along with the capitalized word "BLEND", while, on the Respondent's gloves, there is a stylized uppercase "B" accompanying the same capitalized word. Lastly, it does not appear that the Respondent's gloves feature the stylized black rhombus against which the lowercase "b" is set against in the Complainant's figurative mark and logo.

The Respondent's initial email reply to the Complainant's cease and desist notice also raises concerns. In that email, the Respondent denied that it uses or puts a "Blend Sports" label on manufactured goods. The evidence plainly shows that the gloves on the Respondent's website feature a "Blend Sports" label, and the Complainant picks up on this apparent discrepancy. Nevertheless, the context of the Respondent's email was that it was responding to the Complainant's assertions of its trademark rights. It is possible therefore that the Respondent meant that it did not put the Complainant's own "Blend Sports" logo or figurative mark on clothing (as opposed to using the Respondent's own "Blend Sports" corporate identifier on sporting equipment). That would also be consistent with the Respondent's position in the Response. However, it cannot be overlooked that the Respondent's initial position is somewhat ambiguous.

In short, there are enough similarities in the Parties' logos and a concern regarding the ambiguity over the Respondent's use of a "Blend Sports" label to have raised questions in the Panel's mind, had there been a suitable quality of evidence suggesting that the notoriety of the Complainant would more probably than not have come to the Respondent's attention when it registered the disputed domain name in 2016. However, there is no such evidence of any quality presented here, and it is the subject of mere assertion on the Complainant's part. In the Panel's view, the logo similarity issue and apparent ambiguity in the Respondent's initial position, while somewhat concerning, are insufficiently conclusive and thus too marginal to be sufficient to impute the necessary historic knowledge of the Complainant and its rights to the Respondent.

The Panel adds for completeness that it has placed little weight upon the Respondent's managing director's tax certificate. The fact that a person may have been an entrepreneur for a long time does not, in and of itself, exclude the possibility that that person might also be a cybersquatter. What would have been more conclusive would have been the date of incorporation of the Respondent company had this been placed in evidence, a fact presumably known to the Respondent's managing director and likewise available to the Complainant via an inquiry with the official company registration authority. Had the Respondent been incorporated under its present name in 2001, for example, that would have established conclusively its use of the name "Blend Sports" before the Complainant acquired any trademark rights, as the Respondent appears to suggest. However, the tax certificate does not demonstrate this. It merely shows that the Respondent's managing director obtained a registration for sales tax in 2001, and that such registration is now associated with the Respondent and one other business entity.

In conclusion on this element, the Panel finds that the Complainant has failed to carry its burden regarding registration of the disputed domain name in bad faith. This renders the question of use in bad faith moot, and the Complaint must fail. It is clear that a wider trademark dispute between the Parties may remain that could be addressed in an alternative (court) forum. That is, however, a matter beyond the scope of this proceeding.

E. Reverse Domain Name Hijacking

Paragraph 15(e) of the Rules provides: "If after considering the submissions the Panel finds that the complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or was brought primarily to harass the domain-name holder, the Panel shall declare in its decision that the complaint was brought in bad faith and constitutes an abuse of the administrative proceeding." It is generally accepted that mere lack of success of a complaint is not itself sufficient for such a finding.

Here, the Respondent asserts that its claim of Reverse Domain Name Hijacking is made out due to the weakness of the Complainant's case and the lack of supporting evidence supplied. The Panel considers that while the Complainant has been unsuccessful in its Complaint, it was entitled to put the Respondent to the proof on the question of its prior knowledge of the Complainant, particularly given the apparent similarities between the Parties' logos, the similar nature of goods concerned (being clothing/sporting apparel, even if, as the Respondent says, they would fall under different use classes in a trademark sense), the fact that the Complainant's trademark is of a longstanding nature, and the ambiguity in the Respondent's initial reply to the Complainant's cease and desist notice. Indeed, had the Complainant provided greater evidence to support its assertions as to its notoriety at the material date, the outcome could have been very different.

As matters stand, however, the Panel considers that the fact that the Complainant failed to bring forward sufficient evidence of its notoriety and/or of the extent of its online presence at the material date does not necessarily lead to a conclusion that it must have brought the Complaint in bad faith. In these circumstances, the Respondent's request for a finding of Reverse Domain Name Hijacking is denied.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Andrew D. S. Lothian/

Andrew D. S. Lothian

Sole Panelist

Date: June 23, 2023