

ADMINISTRATIVE PANEL DECISION

Blu Dot Design & Manufacturing, Inc. v. Ubfhs Oncfsf
Case No. D2023-2162

1. The Parties

The Complainant is Blu Dot Design & Manufacturing, Inc., United States of America (“United States” or “U.S.”), represented by Fredrikson & Byron, PA, United States.

The Respondent is Ubfhs Oncfsf, Hong Kong, China.

2. The Domain Name and Registrar

The disputed domain name <bludotsale.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 May 17, 2023. On May 17, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 18, 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 (Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 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 amended Complaint on May 23, 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 June 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 28, 2023.

The Center appointed Andrea Mondini as the sole panelist in this matter on July 21, 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

For 26 years, the Complainant has designed, created, and sold design-driven furniture and home furnishing products throughout the United States and on an international basis under the trademark BLU DOT.

The Complainant owns numerous trademark registrations, *inter alia*, the U.S. Registration No. 4370810 for BLU DOT, registered on July 23, 2013, as well as the U.S. Registrations Nos. 3306038, registered on October 9, 2007, and 2188740, registered on September 15, 1998, for BLU DOT & design.

The Complainant also holds the domain name <bludot.com>.

The disputed domain name was registered on July 26, 2022.

The disputed domain name resolved to a website offering furniture products and prominently using a logo “BL BLUDO TSALE”. However, the title of each product contains the Complainant’s BLU DOT trademark. At the time of this decision, the disputed domain name redirects to the website “www.homebludot.com”.

5. Parties’ Contentions

A. Complainant

The Complainant contends as follows:

In 2018, the Complainant was awarded the prestigious Cooper Hewitt National Design Award in the “Product Design” category to honor lasting achievement in American design.

The disputed domain name is confusingly similar to the BLU DOT trademark in which the Complainant has rights, because it incorporates this trademark in its entirety, and the addition of the word “sale” does not prevent a finding of confusing similarity.

The Respondent has not been authorized by the Complainant to use this trademark, is not commonly known by the disputed domain name, and there is no evidence of the Respondent’s use, or demonstrable preparation to use, the disputed domain name in connection with a *bona fide* offering of goods and services. In fact, the Respondent purports to sell genuine Complainant’s furniture and home furnishings, using the Complainant’s BLU DOT trademark, and often appearing to use the Complainant’s own photography to sell knock-off furniture, at deeply discounted sale prices.

The disputed domain name was registered and is being used in bad faith because it is obvious that the Respondent registered the disputed domain name to intentionally attempted to attract for commercial gain, Internet users to the Respondent’s website, 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.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the 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. Identical or Confusingly Similar

The Panel is satisfied that the Complainant owns trademark registrations for its BLU DOT trademark.

The Panel notes that the disputed domain name incorporates the BLU DOT trademark in its entirety. The addition of the term “sale” does not prevent a finding of confusing similarity under the Policy, paragraph 4(a)(i). See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8.

The addition of the generic Top-Level Domain (“gTLD”) “.com” in the disputed domain name is a standard registration requirement and as such is disregarded under the confusing similarity test under the Policy, paragraph 4(a)(i). See [WIPO Overview 3.0](#), section 1.11.1.

For these reasons, the Panel concludes that the disputed domain name is confusingly similar to the Complainant’s mark BLU DOT.

The first element of paragraph 4(a) of the Policy has been met.

B. Rights or Legitimate Interests

The Complainant states it has not authorized the Respondent to use the trademark BLU DOT and that before notice of the dispute, there is no evidence of the Respondent’s use, or demonstrable preparation to use, the disputed domain name in good faith. The Panel does not see any contrary evidence from the record.

In the view of the Panel, the Complainant has succeeded in raising a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, and the burden of production shifts to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. For its part, the Respondent failed to provide any explanations as to any rights or legitimate interests. Therefore, the Panel finds that the Respondent does not have any rights or legitimate interests in the disputed domain name.

Furthermore, the nature of the disputed domain name, incorporating the Complainant’s trademark in its entirety followed by the term “sale”, along with its use for a website offering furniture products. The Panel notes the website prominently displays a logo “BL BLUDO TSALE”. Moreover, the title of each product contains the Complainant’s BLU DOT trademark and there is not any information on the website regarding the (lack of) relationship between the Complainant and the Respondent. Such use cannot be considered as a fair use, as it falsely suggests an affiliation with the Complainant that does not exist.

The second element of paragraph 4(a) of the Policy has been met.

C. Registered and Used in Bad Faith

The Complainant has shown to the satisfaction of the Panel that its BLU DOT trademark is well-known for furniture products.

In the view of the Panel, noting that the Complainant’s trademark predates the registration of the disputed domain name and the fact that the Respondent’s website purportedly offers the Complainant’s branded

furniture products, it is inconceivable that the Respondent could have registered the disputed domain name without knowledge of the Complainant's trademark. In the circumstances of this case, this is evidence of registration in bad faith.

The Complainant has shown that the Respondent uses the disputed domain name to offer similar furniture products under the BLU DOT trademark, using similar pictures, thereby falsely suggesting an affiliation with the Complainant that does not exist. The Panel thus finds that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion as to the source, sponsorship or affiliation of its website in the sense of paragraph 4(b) (iv) of the Policy.

The Panel thus finds that the disputed domain name was registered and is being used in bad faith.

The third element of paragraph 4(a) of the Policy has been met.

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

/Andrea Mondini/

Andrea Mondini

Sole Panelist

Date: July 27, 2023