

ADMINISTRATIVE PANEL DECISION

Bulldozer Productions, Inc. v. AnhND, SilverEyes Case No. D2023-2379

1. The Parties

The Complainant is Bulldozer Productions, Inc., United States of America (“United States”), represented by Nolan Heimann LLP, United States.

The Respondent is AnhND, SilverEyes, Viet Nam.

2. The Domain Name and Registrar

The disputed domain name <callherdaddymerch.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 June 1, 2023. On June 2, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 5, 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 (Call Her Daddy Merch) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 6, 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 June 7, 2023. On June 15, 2023, in response to an invitation by the Center to clarify certain information in the Complaint, the Complainant filed another amendment to the Complaint.

The Center verified that the Complaint together with the amendments 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 June 16, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 12, 2023.

The Center appointed Andrea Mondini as the sole panelist in this matter on July 27, 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 operates an online store selling merchandising articles related to the podcast “Call Her Daddy”.

The Complainant owns numerous registrations for the trademark CALL HER DADDY, *inter alia*, the United States Trademark registrations No. 5780945 filed on November 14, 2018 and registered on June 18, 2019 and No. 6136381 filed on February 27, 2020, and registered on August 25, 2020.

The Complainant began using the trademark CALL HER DADDY in commerce in June 2018 for its online store at <callherdaddy.com>.

The disputed domain name was registered on December 1, 2020.

The disputed domain name resolves to an online store offering merchandising articles using the CALL HER DADDY trademark.

5. Parties' Contentions

A. Complainant

The Complainant contends as follows:

The disputed domain name is identical or confusingly similar to the trademark in which the Complainant has rights, because it incorporates this trademark in its entirety.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has not been authorized by the Complainant to use this trademark, is not commonly known by the disputed domain name, and the only reason the Respondent selected the disputed domain name is to cause consumers to believe that the Respondent is affiliated with the Complainant.

The disputed domain name was registered and is being used in bad faith because it is obvious that the Respondent had knowledge of both the Complainant and its trademark CALL HER DADDY at the time it registered the disputed domain name, and because the Respondent is using the Complainant's trademark to capitalize off the success and reputation of the Complainant to cause consumers to purchase inferior goods from the Respondent's website.

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 CALL HER DADDY trademark.

The Panel notes that the disputed domain name incorporates the CALL HER DADDY trademark in its entirety.

The addition of the term “merch” 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 CALL HER DADDY.

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

B. Rights or Legitimate Interests

The Complainant states that it has not authorized the Respondent to use the trademark CALL HER DADDY and that the Respondent is not commonly known by the disputed domain name. 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. For its part, the Respondent failed to provide any explanations as to any rights or legitimate interests. In addition, the Panel considers that the nature and use of the disputed domain name, in the circumstances of this case, carry a risk of implied affiliation. Therefore, the Panel finds that the Respondent does not have any rights or legitimate interests in the disputed domain name.

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 it has used its trademark for an online store to sell merchandising articles since June 2018.

In the view of the Panel, noting that the Complainant’s use and registration of its trademark predate the registration of the disputed domain name and the nature of the disputed domain name, 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 merchandising goods under the trademark CALL HER DADDY, using similar pictures and even pretending to be the “official merchandise store for Call Her Daddy fans”, 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, <callherdaddymerch.com> be transferred to the Complainant.

/Andrea Mondini/

Andrea Mondini

Sole Panelist

Date: August 10, 2023