Decision for dispute CAC-UDRP-102074

Case number	CAC-UDRP-102074
Time of filing	2018-08-08 14:21:04
Domain names	lovehoneyshop.store

Case administrator

Name	Sandra Lanczová (Case admin)

Complainant

Organization	Lovehoney Group Limited

Complainant representative

Organization	BrandIT GmbH

Respondent

Organization	lu qiu ping

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other pending or decided legal proceedings related to the disputed domain name.

IDENTIFICATION OF RIGHTS

According to the evidence submitted by Complainant, Complainant is the owner of the following trademarks: European Union trademark LOVEHONEY, with registration number 003400298 and a registration date of 17 January 2005, and an International Trademark Registration for LOVEHONEY, with No. 1091529, registration date 27 June 2011, also applicable in China.

FACTUAL BACKGROUND

According to the information provided Complainant was founded in 2002 and it is now the largest online sex toy retailer in the UK and is growing rapidly internationally.

The disputed domain name, <lovehoneyshop.store>, was registered on 5 December 2017.

The trademark registrations of Complainant have been issued prior to the registration of the disputed domain name.

According to Complainant, the disputed domain name is confusingly similar to Complainant’s trademarks since it contains the word LOVEHONEY. The component ‘shop.store” can be neglected as they are merely descriptive terms.

According to Complainant, Respondent has no rights or legitimate interest in the disputed domain name. Respondent has neither been authorized by Complainant to register the disputed domain name, nor has Respondent acquired a legitimate right to use the LOVEHONEY trademarks by any preceding or current business activity.
The website to which the disputed domain name resolves copies the LOVEHONEY® logotype and slogan “the sexual happiness people” of Complainant prominently on the top left hand side of the page. Complainant submits that Respondent is not authorized to use the LOVEHONEY trademarks, nor is there any relationship between Complainant and Respondent. Moreover, the use of the word LOVEHONEY (i) in the disputed domain name and (ii) also on multiple occasions in the website text further creates the impression that there is some official or authorized link with Complainant.

According to Complainant the disputed domain name is registered and is being used in bad faith. Respondent should have known about the trademark LOVEHONEY before the registration of the disputed domain name. It has to be highlighted that Complainant’s trademark registrations predate the creation of the disputed domain name and Respondent has never been authorized by Complainant to register and use the disputed domain name.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

Complainant has, to the satisfaction of the Panel, shown Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

Pursuant to the request of Complainant the Panel decides in accordance with paragraph 11(a) of the UDRP Rules that the language of proceedings is English as the content of the website to which the disputed domain name resolves is in the English language. The website also has prices in USD.

PRINCIPAL REASONS FOR THE DECISION

Complainant has established that it is the owner of several trademark registrations for LOVEHONEY. The disputed domain name incorporates the entirety of the LOVEHONEY trademark as its distinctive element. Many UDRP panels have found that a disputed domain name is confusingly similar to a complainant’s trademark where the disputed domain name incorporates a complainant’s trademark in its entirety. The addition of the descriptive term “shop” and the generic Top-Level Domain (“gTLD”) “.store” is insufficient to avoid a finding of confusing similarity.

In the opinion of the Panel, Complainant has made a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Complainant has not licensed or otherwise permitted Respondent to use any of its trademarks or to register the disputed domain name incorporating its trademarks. Respondent is not making a legitimate noncommercial or fair use of the disputed domain name with intent for commercial gain to misleadingly divert consumers or

to tarnish the trademarks of Complainant.
The Panel accepts the undisputed submission of Complainant that the disputed domain name resolves to a website which copies a prominent part of the website of Complainant. The Panel does not consider such use a bona fide offering of goods or services nor a legitimate noncommercial or fair use of the disputed domain name. In addition, the website under the disputed domain name does not accurately and prominently disclose the relationship between Respondent and Complainant as the holder of the LOVEHONEY trademarks, in particular as there has never been any business relationship between Complainant and Respondent. Respondent is also not commonly known by the disputed domain name nor has it acquired any trademark or service mark rights.

The Panel finds that the disputed domain name has been registered and is being used in bad faith. Noting the status of the LOVEHONEY marks and the overall circumstances of this case, in particular the copying of part of the website of Complainant by Respondent, the Panel finds it more likely than not that Respondent knew or should have known of Complainant's marks.
The Panel notes that the disputed domain name resolves to a website which is partly a copy of the website of Complainant and incorporates Complainant's marks, which indicates, in the circumstances of this case, that Respondent registered and used the disputed domain name with the intention to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the trademarks of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **LOVEHONEYSHOP.STORE**: Transferred

PANELLISTS

Name	**Dinant T.L. Oosterbaan**

DATE OF PANEL DECISION 2018-09-20

Publish the Decision