

Decision for dispute CAC-UDRP-103597

Case number CAC-UDRP-103597

Time of filing 2021-03-17 11:11:05

Domain names sbc-chain.com

Case administrator

Organization Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization SoftBank Group Corp.

Complainant representative

Organization CSC Digital Brand Services Group AB (c/o Paddy Tam)

Respondent

Name Liu Ti Ti

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is, inter alia, proprietor of the Japanese trademark registration for "SB+design" JP 5944271 registered on April 28, 2017 in several classes, inter alia 9, 12, 16, 35, 3 and Softbank JP 1858515 registered on April 23, 1986.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant is a Japanese multinational conglomerate holding company established in 1981 and is the parent company of a global portfolio of subsidiaries and affiliates, involved in investment activities, advanced telecommunications, internet services, Internet of Things, robotics and clean energy technology providers. It is also an internationally renowned company for its active investments in internet related field on a global scale and has 1,475 subsidiaries, 80,909 employees (consolidated basis) as of March 31, 2020.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The 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 the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the 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

The 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.

In accordance with paragraph 11 of the UDRP, the Panel can determine the language of the proceeding otherwise having regard to the circumstances of the case. Since the website the disputed domain name is referring to is also in English, the Panel, having considered the circumstances of this case, determines, on request of the Complainant, that English is the language of the proceeding.

PRINCIPAL REASONS FOR THE DECISION

In order to succeed in its claim, the Complainant must demonstrate that all of the elements enumerated 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; and
- (ii) The Respondent has no rights or legitimate interests with respect to 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 Complainant has established the fact that it has valid trademark rights for "SB+design" and "Softbank" whereas the "SB" carries the weight of the combination mark "SB+design".

The disputed domain name is confusingly similar to Complainant's mark "SB", whereas the top level domain, .com as well as the descriptive element "chain" do not influence the distinctiveness of the disputed domain name. Also the letter "c" after the first two letters "SB" does not eliminate here the confusing similarity due to the further circumstances displayed on the websites of the Complainant and the website under the disputed domain name. That the website can play a role in assessing the confusing similarity is acknowledged in UDRP case law (see WIPO D2016-2650, VF Corporation v. Vogt Debra). Since the Complainant offers also a "Softbank Card" under a domain name <sbcard.jp> and the website under the disputed domain name is displaying the Complainant's "Softbank" mark, shows the product "Softbank Card" and a mark "SBC+design", whereas the design is similar to the design of Complainant's mark "SB"+design, these circumstances do not only not diminish the confusing similarity but even increase it since a visitor of the website under the disputed domain name is at risk to think that the website under the disputed domain name is from the Complainant. The Panel therefore considers the disputed domain name to be confusingly similar to the trademark "SB + design" in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Respondent has no rights or legitimate interests in the disputed domain name, since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to the Respondent to use its trademarks or designations confusingly similar to its trademarks. Furthermore, the Respondent has no rights or legitimate interests in the disputed domain name, since there is no indication that the Respondent is commonly known by the name "SB" or "SBC-chain" or that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services.

The Panel therefore finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

In view of the non-disputed assessment that the Complainant is well visible on the market, the Respondent must have been well aware of the Complainant and its trademark when registering the disputed domain name for a website which shows the "Softbank" mark of the Complainant. The Complainant had not authorized the Respondent to make use of its mark. This Panel does not see any conceivable legitimate use that could be made by the Respondent of this particular disputed domain name without the Complainant's authorization.

The circumstances of this case, in particular the website under the disputed domain name showing the brand of the Complainant and the product "Softbank Card" and a logo "SBC+design" being similar to the "SB+design" mark of the Complainant indicate that the Respondent registered and used the disputed domain name primarily with the intention of attempting to attract, for commercial gain, Internet users to its website or other online locations, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of such website or location, or of a product or service on such website or location.

The Panel therefore considers the disputed domain name to have been registered and used in bad faith in accordance with paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **SBC-CHAIN.COM**: Transferred

PANELLISTS

Name	Dietrich Beier
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DATE OF PANEL DECISION 2021-04-23

Publish the Decision
