Decision for dispute CAC-UDRP-100530

Case number	**CAC-UDRP-100530**
Time of filing	**2012-11-19 15:03:15**
Domain names	**repettoshop.com**

Case administrator

Name	**Lada Válková (Case admin)**

Complainant

Organization	**Repetto**

Respondent

Organization	**wen kai long**

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 has provided evidence of the following trademark registrations:

International Trademark Registration No. 679526 for “repetto”, registered on September 5, 1997 in class 25;
International Trademark Registration No. 1040048 for “repetto”, registered on March 29, 2010, in classes 3, 14 and 18;
International Trademark Registration No. 433035 for “r repetto”, registered on October 21, 1977, in class 25.

The Complainant is also the owner of the domain names <repetto.com>, <repetto.fr>, <repetto.us> and <repetto.cn>.

FACTUAL BACKGROUND

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

The Complainant contends the disputed domain name is confusingly similar to its well-known and distinctive trademark “REPETTO”, registered and used since 1977. The disputed domain name incorporates the entirety of the Complainant's trademark in association with the English term “shop”.

The Complainant contends the addition of a gTLD “.com” and of the term “shop” is not sufficient to avoid the finding that the domain name is confusingly similar to its trademark. To the contrary, it only reinforces the impression that the disputed domain name is connected to the Complainant. The Complainant therefore contends that disputed domain name is confusingly similar to the trademark “REPETTO” in which the Complainant has prior rights.

The Complainant also points out that the Respondent does not have any rights or legitimate interest in the disputed domain name and states that, as found in WIPO case No. D2003-0455, “Croatia Airlines d.d. v. Modern Empire Internet Ltd.”, “a

complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such prima facie case is made, respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the respondent fails to do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the UDRP".

The Complainant states that the Respondent is not affiliated with nor authorized by the Complainant, that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that it is not related in any way to the Complainant's business, as the Complainant does not carry out any activity for, nor has any business with, the Respondent. The Complainant asserts, furthermore, that the Respondent is not commonly known as "Repetto".

The Complainant points out that the disputed domain name < repettoshop.com > has been redirected to a web site displaying the name of Complainant's competitor "Jimmy Choo" and products (bags, shoes etc.) related of the Complainant. The Complainant contends that the Respondent has no rights in the disputed domain name since "REPETTO" is a well-known and distinctive trademark of the Complainant and it appears that the Respondent is seeking to profit from the goodwill and reputation of the Complainant's trademark.

The Complainant contends that its trademark "REPETTO" is well known in the world, especially in China where its products are marketed through the website "www.repetto.cn".

In addition, Google or Baidu searches for the term "REPETTO" display results in relation with the Complainant. The Complainant thus contends that the Respondent could not ignore the Complainant and its trademark.

As to the use of < repettoshop.com >, the Complainant states that on the corresponding web site the name of a Complainant's competitor ("Jimmy Choo") is displayed and the Complainant's products are offered for sale at a discounted price.

The Complainant therefore states that, by this use, the Respondent is creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's site and services.

The Complainant also contends that the Respondent's purpose of this registration was to divert the Complainant's customers to its web site where counterfeit products are offered for sale without the consent of the Complainant. The Complainant highlights that using domain names to facilitate the sale of counterfeit goods is strong evidence of bad faith (Prada S.A. v. Domains For Life, WIPO Case No. D2004-1019).

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.

The language of the Registration Agreement is Chinese. However, in view of the circumstances of the case, including the undisputed allegations of the Complainant that the website corresponding to the disputed domain name (currently inactive) was entirely in English, and the fact that Respondent has been given a fair chance to object but has not done so, the Panel determines in accordance with paragraph 11(a) of the UDRP Rules that the language of the proceeding be English.

PRINCIPAL REASONS FOR THE DECISION

1. The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark "REPETTO" as the mere addition of the generic term “shop” is not sufficient to exclude the likelihood of confusion with the Complainant’s trademark.

2. The Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, and that the Respondent is not making a legitimate non-commercial or fair use of the disputed domain name. In fact, the Complainant has submitted a screenshot showing that the disputed domain name was used in the past in connection with a web site where the Complainant’s products were offered for sale at discounted prices and the name and trademark of a Complainant’s competitor, “Jimmy Choo”, was displayed. The Complainant also submitted that the Respondent is not commonly known by the disputed domain name and has no trademark rights on “REPETTO”. Under these circumstances and in absence of a Response, the Panel finds that Respondent has no rights or legitimate interest in the disputed domain name.

3. The Panel also finds that the disputed domain name has been registered and used in bad faith. As mentioned above, the disputed domain name has been pointed to a web site where the name and trademark of a Complainant’s competitor was displayed and what appear to be counterfeit REPETTO products were offered for sale. The Panel finds, therefore, that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its web site by creating a likelihood of confusion with the trademark of the Complainant as to the source, sponsorship, affiliation, or endorsement of its web site or of the products promoted thereon.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **REPETTOSHOP.COM**: Transferred

PANELLISTS

Name	**Luca Barbero**

DATE OF PANEL DECISION 2013-01-02

Publish the Decision