



ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE

— A charitable institution limited by guarantee registered in Hong Kong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Complainant: Autumnpaper Limited

Respondent: Onlinesports

Case Number: HK-1100413

Contested Domain Names: <alexandermcqueenonline.com>, <alexandermcqueenstoreonline.com> and <alexandermcqueenshop.org>

Panel Member: Adam Samuel

1. The Contested Domain Name

The contested or disputed domain names are <alexandermcqueenonline.com>, <alexandermcqueenstoreonline.com> and <alexandermcqueenshop.org>

2. Procedural History

On 22 December 2011, lawyers for the Complainant filed the Complaint with the Hong Kong International Arbitration Centre (HKIAC) pursuant to the Uniform Policy for Domain Name Dispute Resolution approved by ICANN (the “Policy”). On 23 December 2011, the HKIAC asked the registrar, GoDaddy.com LLC, to confirm that the then-named Respondent was the Registrant of the contested domain names and for other factual information. On the following day, the registrar revealed that the Respondent was the registrant of the disputed domain names. On 3 January 2012, HKIAC e-mailed the Complainant’s lawyers to transmit to them the information as to the correct identity of the registrant of the disputed domain names. The Complainant’s lawyers filed an amended Complaint with the HKIAC on 6 January 2012. Receipt of this was acknowledged by the HKIAC on the same day.

On 9 January 2012, the HKIAC served the Complaint on the Respondent indicating to it that it had 20 calendar days ending on 29 January 2012 in which to file a response. No response has been received to date. On 3 February 2012, the HKIAC appointed

Adam Samuel to serve as the Panelist in this case having received the appropriate declarations of independence.

3. Factual Background

The Complainant has been the owner of the ALEXANDER MCQUEEN trademarks since 2004, notably, in Hong Kong, number 199906798AA, registered on 26 August 1998. These are used to promote the brand of clothes originally created by the designer Lee Alexander McQueen in 1992. The contested domain names were all registered on 4 July 2011.

4. Parties' Contentions

The Complainant

These are the Complainant's contentions with which the Panel does not necessarily agree in their entirety.

The Complainant owns numerous trademark registrations for ALEXANDER MCQUEEN covering various goods and services in the clothes design area in countries throughout the world, including the People's Republic of China and Hong Kong. These go back to the late 1990s. Internet users can purchase genuine Alexander McQueen products online through its domain, <alexandermcqueen.com>.

The three disputed domain names resolve to websites which feature the Complainant's ALEXANDER MCQUEEN trademarks. They also contain statements indicating that they are associated with the Alexander McQueen business which they are not. Internet users have complained to the Complainant that they have purchased goods through these websites and not received the goods for which they have paid.

The first part of each of the disputed domain names is identical to the Complainant's trademark. The second consists of the English words "online", "store" and "shop" respectively. These obviously refer to the internet or a business establishment offering online goods for sale, an industry in which the Complainant uses its trademarks. The generic words in the second part of the domain names are insufficient to distinguish the disputed domain names from the Complainant's trademarks. The generic words bear an obvious relationship to the Complainant's business and would mislead Internet users into believing that the disputed domain names correspond to genuine authorized websites offering genuine Alexander McQueen products for sale.

The Respondent is clearly not named "Alexander McQueen". The Respondent has never been authorized or licensed to use the Complainant's trademarks. The trademarks were registered more than ten years before the disputed domain names and are extremely well-known. The websites to which the disputed domain names

resolve offer counterfeits. The Respondent has deliberately taken advantage of the Registrar's Privacy Service to deceive Internet users into believing that the websites to which the disputed domain names resolve are official or are associated with Alexander McQueen.

The Respondent

The Respondent did not reply to the Complaint.

5. Findings

Under the Policy, the Complainants must prove with respect to each of the disputed domain names that:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which it has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) the domain name has been registered and is being used in bad faith.

(1). Identical/confusing similarity

Each disputed domain name consists of a well-known trademark with the addition of generic words "online", "store", a combination of the two and "shop". There is also the usual addition of the generic top-level domain ".com" and in one case ".org".

The test of confusing similarity is one of whether a reasonable Internet user would be confused as to the identity of the owner of the domain name. When faced with a well-known trademark and generic terms that relate to the selling of products online or elsewhere, such confusion is likely to exist. The disputed domain names all carry with them the obvious inference to the user that the website to which each domain name resolves represents in some way the Complainant's business.

For these reasons, the Panel concludes that the disputed domain names are all confusingly similar to the trademark in which the Complainant has rights.

(2). Rights or Legitimate Interests of Respondent

The Respondent is not called "Alexander McQueen" or anything similar and does not appear to trade under that or any related name. There is no evidence that the Complainant has authorized the Respondent to use its trademark. The Respondent has never asserted any rights or legitimate interests in that name or replied to the Complaint on the subject. For these reasons, on the basis of the available record, notably the absence of a Response, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

(3). Bad faith

The name, “Alexander McQueen”, is extremely well-known in the fashion industry. The Complainant’s trademark was registered in China, Hong Kong and elsewhere over a decade before the domain name was registered.

The second and third disputed domain names currently resolve to a website which clearly purports to be selling Alexander McQueen merchandise. The three disputed domain names were all registered on the same date. It is apparent from this that the Respondent knows of the Complainant’s trademark and did so when it registered the disputed domain names. It has provided no justification for doing this.

The only available explanation of what has happened is that the Respondent’s motive in registering and using the domain names seems to be do one or more of the following: disrupt the Complainant’s relationship with its customers or potential customers, attempt to attract Internet users for potential gain or persuade the Complainant to buy the domain names from it for an amount in excess of the Respondent’s out-of-pocket expenses. These all constitute evidence of registration and use in bad faith: paragraph 4(b) of the Policy.

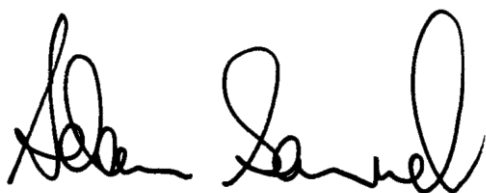
For these reasons, the Panel concludes that the Respondent registered and used each of the contested domain names in bad faith. In the circumstances, it is unnecessary to deal with the other points raised in the complaint.

It should, though, be noted that serious counterfeiting and fraud allegations have been made in this case to which no response has been received. The second and third domain names listed in this Complaint do currently resolve to a website offering official Alexander McQueen merchandise in a way that would support the Complainant’s allegations in this area.

6. Conclusions

For all the above reasons, in accordance with paragraph 4 of the Policy, the Panel orders that the domain names <alexandermcqueenonline.com>, <alexandermcqueenstoreonline.com> and <alexandermcqueenshop.org> be transferred to the Complainant.

Dated: 16 February 2012

A handwritten signature in black ink, appearing to read "Adam Samuel". The signature is written in a cursive, flowing style with some loops and flourishes.

Adam Samuel

