



Asian Domain Name Dispute Resolution Centre

hongkong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2301779
Complainant:	Top Glory Trading Group Inc
Respondent:	Jan Everno
Disputed Domain Name(s):	<brunomarc.com>

1. The Parties and Contested Domain Name

The Complainant is Top Glory Trading Group Inc of 2500 83rd Street North Bergen, NJ 07047.

The Respondent is Jan Everno of 2885 Sanford Ave SW 29892, Grandville, MI, US.

The domain name at issue is <brunomarc.com>, registered by the Respondent with SNAPNAMES 27, LLC of 5335 Gate Pkwy, Jacksonville, FL 32256.

2. Procedural History

On 17 July 2023, the Complainant submitted to the Hong Kong Office ("HK Office") of the ADNDRC ("ADNDRC") pursuant to the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP") and the Rules for the Uniform Domain Name Dispute Resolution Policy (the "Rules"). On 19 July, the HK Office sent to the Complainant by email an acknowledgment of the receipt of a Complaint, the format of which was reviewed for compliance with the Policy, the Rules and the HK Office Supplemental Rules. On the same day, the HK Office also notified the Registrar of the Complaint by email.

On 2 August 2023, the Registrar replied to the HK Office informing the identity of the domain name Registrant. On 14 August 2023, the HK Office informed the Complainant that the information of the Respondent in the Complaint was different from the WHOIS information provided by the Registrar. On the same day, the Complainant submitted an amended Complaint to the HK Office. On 18 August, the HK Office forwarded the amended Complaint to the Respondent. The due date of the Response was 7 September 2023.

On 11 September 2023, the HK Office informed the Respondent of his/her default. On 11 September 2023, the HK Office appointed Man Sing Yeung as the sole panelist in this matter. The Panelist accepted the appointment and submitted a

statement to the ADNDRC that he is able to act independently and impartially between the parties.

According to the provisions of the procedural rules, the Panel decided the language of the proceeding to be that of the Registration Agreement of the Disputed Domain Name, that is, English.

3. Factual background

The Complainant is a US company which was founded in 2013. Its product lines comprise women's shoes, children's shoes, men's shoes, outdoor shoes, work shoes and other vertical subcategories. It owns the brands, Dream Pairs, Dream Pairs Kids, Bruno Marc, Nortiv8 and Toetos Safety. The Complainant sells its products internationally, including in North America, Europe, Asia and other regions, and its offline active layout of the U.S. market opened more than 30 local brand shops.

The Complainant registered the BRUNO MARC trademark in the following jurisdictions :

- China – Trademark No 28887714, registered on 14 December 2018 and expired on 13 December 2028, in class 25;
- China – Trademark No 25497381, registered on 28 July 2018 and expired on 27 July 2028, in class 25;
- Australia – Trademark No 2023440, registered on 16 July 2019 and expired on 16 July 2029, in class 25; and
- Others include Japan, Canada, EU & US.

The disputed domain name was registered on 22 February 2023 and expired on 22 February 2024.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The Disputed Domain Name is identical and/or confusingly similar to the Complainant's registered BRUNO MARC trademark. The trademark BRUNO MARC is not a word in common use in the English language. It originates from the name of an American singer, Bruno Mars.
- ii. The Respondent does not have rights or legitimate interests in the Disputed Domain Name. The Respondent does not appear to have trademark rights in the name "Bruno Marc". It is not the Complainant's distributor or business partner. The Respondent has never been authorized by the Complainant to use the BRUNO MARC trademark or in a domain name.

- iii. The Disputed Domain Name has been registered and is being used in bad faith. The Disputed Domain Name was registered long after the Complainant's BRUNO MARC trademark had already achieved a high level of global recognition. At the time of the filing of the Complaint, the Respondent was selling the Disputed Domain Name for a profit. The Respondent clearly knew or should have known of the Complainant's business and BRUNO MARC trademark when he/she registered the Disputed Domain Name.

B. Respondent

The Respondent did not file a Response to the Complaint.

5. Findings

The Policy provides, in Paragraph 4(a), that each of three findings must be made in order for a complainant to prevail:

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

A. Identical / Confusingly Similar

The established test to determine "identity or confusing similarity", the first element of the three findings required to be proved by a complainant under the Policy, requires no more than a straightforward comparison between the complainant's mark and a disputed domain name. Proof of actual confusion by public internet users need not be shown for a complainant to establish the first element of the Policy.

The Complainant has shown it has the rights to the BRUNO MARC trademark through registration. The Disputed Domain Name <brunomarc.com> comprises the Complainant's trademark in its entirety except for the generic Top-Level Domain ("gTLD") ".com". The gTLD is irrelevant to the consideration of the issue of identity or confusing similarity as it is a standard registration requirement.

The Panel finds that the Disputed Domain Name is identical and/or confusingly similar to the Complainant's BRUNO MARC trademark. The Complainant has satisfied the requirement of paragraph 4(a)(i) of the Policy.

B. Rights and Legitimate Interests

Once a complainant establishes a *prima facie* case that a respondent lacks rights or legitimate interests in a disputed domain name, the burden of proof shifts to the

respondent to show that it has rights or legitimate interests in relation to the disputed domain name.

In the present case, the Complainant has demonstrated a *prima facie* case that the Respondent lacks rights or legitimate interests in respect of the Disputed Domain Name whereas the Respondent has failed to assert that any such rights or legitimate interests exist.

There is no evidence that the Respondent is affiliated with the Complainant or that the latter has licensed or otherwise permitted the Respondent to use the Complainant's trademark. There is also no evidence showing that the Respondent is commonly known by the Disputed Domain Name. The Respondent has not provided any evidence that he/she has obtained any trademark rights in BRUNO MARC or is widely known by the Disputed Domain Name.

The Panel is therefore of the view that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and accordingly, paragraph 4(a)(ii) of the Policy is satisfied.

C. Bad Faith

The Complainant has submitted evidence that shows that the Respondent registered the Disputed Domain Name some years after the Complainant had registered and used its BRUNO MARC trademark.

The Complainant provided evidence that, at the time of filing the Complaint, the Disputed Domain Name was offered for sale at least several times higher than the cost of the domain name registration, apparently for a profit, in full compliance with the Policy 4b(i) circumstances indicating that a respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to a complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name. The Complainant believes that the Respondent's use of the Disputed Domain Name is in bad faith.

Having considered the totality of the evidence presented, the Panel is persuaded that the Respondent was well aware of the Complainant and its business and targeted the Complainant when he/she registered the Disputed Domain Name. The Panel concludes that the Respondent incorporated the Complainant's BRUNO MARC trademark in the Disputed Domain Name with the intention of misleading and directing Internet users for commercial gain, perhaps for phishing purposes. Such registration and use of the Disputed Domain Name are in bad faith.

The Respondent did not submit a Response, from which the Panel draws a negative inference.

The Panel concludes from (i) the virtual identity between the Disputed Domain Name and the Complainant's BRUNO MARC trademark, (ii) the fact that the Disputed Domain Name was offered for sale on the public domain for valuable consideration and (iii) the fact that no Response was submitted by the Respondent in response to

the Complaint, that the Disputed Domain Name was registered and is being used in bad faith.

The Panel is of the view that paragraph 4(a)(iii) of the Policy is satisfied.

6. Decision

For the foregoing reasons, in accordance with paragraph 4(i) of the Policy and 15 of the Rules, the Panel orders that the Disputed Domain Name <brunomarc.com> be **transferred** to the Complainant.



Man Sing Yeung
Panelist

Dated: 21 September 2023