



Asian Domain Name Dispute Resolution Centre

hong kong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2301812
Complainant:	Shenzhen Baseus Technology Co. Ltd.
Respondent:	<u>meir gershi</u>
Disputed Domain Name:	<baseus-israel.com>

1. The Parties and Contested Domain Name

The Complainant is Shenzhen Baseus Technology Co. Ltd., of 2/F, Building B, Beisi Intelligence Park, NO. 2008, Xuegang Road, Gangtou Community, Bantian Street, Longgang District, Shenzhen, China.

The Respondent is meir gershi, of hazon ish 18, Tiberias, 1430600, Israel.

The Domain Name at issue is <**baseus-israel.com**>, registered by the Respondent with eNom, LLC, of 5808 Lake Washington Blvd NE Ste 201 Kirkland, Washington, 98033-7350, United States.

2. Procedural History

The Complaint was filed with ADNDRC (Hong Kong Office) on September 27, 2023. That day, ADNDRC transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 19, 2023, the Registrar confirmed by e-mail to ADNDRC that the Domain Name is registered with the Registrar and disclosed registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Registrar has verified that the Respondent is bound by the Registrar's registration agreement and has thereby agreed to resolve domain disputes brought by third parties in accordance with ICANN's Uniform Domain Name Dispute Resolution Policy (the "Policy").

ADNDRC sent an email communication to the Complainant on October 25, 2023 providing the registrant and contact information disclosed by the Registrar and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on October 30, 2023. ADNDRC verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Policy and the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules").

In accordance with the Rules, paragraphs 2 and 4, ADNDRC formally notified the Respondent of the Complaint, and the proceedings commenced on October 30, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 20, 2023. The Respondent did not submit any formal Response. Accordingly, ADNDRC notified the Respondent's default on November 21, 2023.

On November 21, 2023, pursuant to the Complainant's request to have the dispute decided by a single-member Panel, ADNDRC appointed Alan L. Limbury as the sole Panelist. The Panelist certifies that he has acted independently and impartially and to the best of his knowledge has no known conflict in serving as Panelist in this proceeding.

3. Factual background

Established in 2019, the Complainant, Shenzhen Baseus Technology Co. Ltd., operates an e-commerce sales channel providing consumer electronics under the trademark BASEUS, which it is licensed to use by the registered proprietor of the mark, its affiliated company Shenzhen Times Innovation Technology Co., Ltd., which has authorized the Complainant to bring this Complaint.

The Respondent failed to file a formal Response. On October 30, 2023, the Respondent sent an informal email to ADNDRC.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The Complainant has rights as licensee in the trademark BASEUS. The Complainant has a high level of popularity and influence. As the Complainant's corporate name and core product trademark BASEUS has been in actual use and promotion for many years, it has become highly recognisable in the world.
- ii. The Domain Name **<baseus-israel.com>** is confusingly similar to the Complainant's mark.
- iii. The Respondent has no rights or legitimate interests in respect of the Domain Name. The Respondent has no trademark or name rights in "baseus". The Domain Name effectively impersonates or suggests sponsorship or endorsement by the owner of the trademark and does not constitute fair use.
- iv. The Respondent has registered and has used the Domain Name in bad faith. The Respondent was aware of the existence of the highly distinctive and well-known BASEUS mark prior to the registration of the Domain Name.
- v. The Respondent has pointed the Domain Name to a website related to the Complainant's business, and the content of the website has displayed the Complainant's BASEUS trademark.

B. Respondent

The informal email from the Respondent ADNDRC on October 30, 2023 is as follows:

“Hello

I am trying to understand where the problem is, I am a customer of Shenzhen Baseus Technology Co. Ltd and buys its products from the company, so I don't understand why I am getting a claim.”

5. Findings

The Complainant has established all the elements entitling it to relief.

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

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

In view of the Respondent's failure to submit a response, the Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations set forth in a complaint; however, the Panel may deny relief where a complaint contains mere conclusory or unsubstantiated arguments. See WIPO Jurisprudential Overview 3.0 at ¶ 4.3.

A) Identical / Confusingly Similar

The Complainant has shown that it has rights as licensee in the BASEUS mark through numerous registrations by its licensor, Shenzhen Times Innovation Technology Co., Ltd., including WIPO Madrid International Trademark Reg. No. 1 340 530 for the stylized word BASEUS, registered on November 14, 2106. The Panel finds the Respondent's <**baseus-israel.com**> Domain Name to be confusingly similar to the BASEUS mark, only differing from the word of the mark by the addition of a hyphen and the country name “Israel”, which do nothing to distinguish the Domain Name from the mark, and the inconsequential “.com” generic top-level domain (“gTLD”), which may be ignored. See, for example, *Rollerblade, Inc. v. Chris McCrady*, WIPO Case No. D2000-0429.

The Complainant has established this element.

B) Rights and Legitimate Interests

Paragraph 4(c) of the Policy sets out three illustrative circumstances as examples which, if established by the Respondent, shall demonstrate rights to or legitimate interests in the Domain Name for purposes of paragraph 4(a)(ii) of the Policy, *i.e.*

- (i) before any notice to the Respondent of the dispute, the use by the Respondent of, or demonstrable preparations to use, the Domain Name or a name corresponding

to the Domain Name in connection with a *bona fide* offering of goods or services;
or

- (ii) the Respondent (as an individual, business or other organization) has been commonly known by the Domain Name, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert customers or to tarnish the trademark or service mark at issue.

The <**baseus-israel.com**> Domain Name was registered on January 6, 2019. It resolves to a website prominently featuring the Complainant's BASEUS mark and offering for sale products of the kind marketed by the Complainant.

These circumstances, together with the Complainant's assertions, are sufficient to constitute a *prima facie* showing of absence of rights or legitimate interests in respect of the Domain Name on the part of the Respondent. The evidentiary burden therefore shifts to the Respondent to show that it does have rights or legitimate interests in the <**baseus-israel.com**> Domain Name. See *Neal & Massey Holdings Limited v. Gregory Ricks*, FA 1549327 (FORUM Apr. 12, 2014). The Respondent has made no attempt to do so.

As to the Respondent's claim in its informal email to be a customer of Complainant, section 2.8.1 of the WIPO Jurisprudential Overview 3.0 provides:

"Panels have recognized that resellers, distributors, or service providers using a domain name containing the complainant's trademark to undertake sales or repairs related to the complainant's goods or services may be making a bona fide offering of goods and services and thus have a legitimate interest in such domain name. Outlined in the "Oki Data test", the following cumulative requirements will be applied in the specific conditions of a UDRP case:

- (i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the site to sell only the trademarked goods or services;
- (iii) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and
- (iv) the respondent must not try to "corner the market" in domain names that reflect the trademark."

In the present case, there is no evidence to support the Respondent's claim that the Respondent is a customer of the Complainant; no evidence that the Respondent is actually offering the Complainant's goods; no evidence that the Respondent is selling only the trademarked goods; and no disclosure on the website of the Respondent's relationship with the trademark holder.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name.

The Complainant has established this element.

C) Bad Faith

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which, though not exclusive, shall be evidence of the registration and use of the Domain Name in bad faith for purposes of paragraph 4(a)(iii) of the Policy, including:

- (iv) by using the Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on its website or location.

The circumstances set out above in relation to the second element satisfy the Panel that the Respondent was fully aware of the Complainant's well-known BASEUS mark when the Respondent registered the <baseus-israel.com> Domain Name and that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source of the Respondent's website and of the goods promoted on that website. This demonstrates registration and use in bad faith to attract users for commercial gain under Policy ¶ 4(b)(iv).

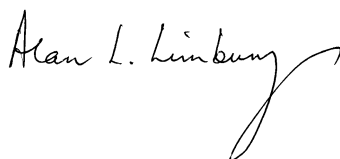
Accordingly, the Panel finds the Respondent registered and is using the Domain Name in bad faith.

The Complainant has established this element.

6. Decision

The Complainant having established all three elements required under the ICANN Policy, the Panel concludes that relief shall be **GRANTED**.

Accordingly, it is Ordered that the <baseus-israel.com> Domain Name be **TRANSFERRED** from the Respondent to the Complainant.



Alan L. Limbury
Panelist

Dated: November 23, 2023