

Domain Name Dispute Resolution Center (DNDRC)

Arbitration and Mediation Center

COMPLAINT PANEL DECISION

Case No. C2023-0005

Also in PDF C2023-0005

1. The Parties

The Complainant is Shenzhen Baseus Technology Co. Ltd., having its office at 2/F, Building B, Beisi Intelligence Park, NO. 2008, Xuegang Road, Gangtou Community, Bantian Street, Longgang District, Shenzhen, China. The Complainant has initiated the Complaint vide their authorized representative, Beijing Chofn Intellectual Property Agency Co., Ltd., at Room 1217, 12th Floor, No. 68, North Fourth Ring West Road, Haidian District, Beijing, China.

The Respondent's name is Raheel Idrees with his address at kot khumbo bund road Lahore.

2. The Domain Names and Registrar

The domain name in dispute is <baseusstore.com.pk>, hereinafter referred to as the Disputed Domain Name ["the DDN"]. Vide email dated Monday 13 November 2023, PKNIC had informed DNDRC that the Disputed Domain Name was registered by Raheel Idrees with the contact name Raheel Idrees with his address at Kot Khumbo Bund Road Lahore.

3. Procedural History

DNDRC received Complaint against the Respondent as per PKNIC - Internet Domain Registration Policy along with a valid Power of Attorney from the Complainant on 27 September 2023.

The Respondent was issued a notification of the dispute along with a copy of the Complaint and a Response Form on 14 November 2023 informing the Respondent that if a Response was not received 10 days from the notification, the dispute would be proceeded ex parte. The Respondent was also issued a reminder notification on 17 November 2023. The Respondent failed to provide a response within the stipulated time period.

Applying Paragraph 4(a) of the Rules for Uniform Domain Name Dispute Resolution Policy (the *Rules*), DNDRC appointed Mr. Umer Shariq as the sole Arbitrator who has verified that the Complaint satisfies the formal requirements of the Policy and the Rules.

Factual Background

The domain name upon which the Complaint is based is <baseusstore.com.pk>.

PKNIC has confirmed via their email dated 13 November 2023 that the DDN was registered by the Respondent above-named and that the email address provided at the time of registration is raheeljutt646@gmail.com.

4. Parties Contentions

A. Complainant

The Complainant's brief contentions are reproduced below:

In order to protect the brand, the Complainant has established rights to the Baseus trademark in several countries and territories around the world, and these trademark rights predate the registration of the disputed domain names. Only some of the trademark rights are shown, please refer to Annex 5 The detailed trademark registration certificate.

Therefore, the Complainant seeks the following remedies:

- The Complainant requests that the disputed domain name baseusstore.com.pk should be transferred to the Complainant.

B. Respondent

The complaint was duly served to the Respondent, but the Respondent did not submit any response. Under section 5(e) of the UDRP, in the absence of a response, the Panel has the authority to commence the proceedings in default and to determine the matter based upon the Complaint. Therefore, the Panel proceeded with the matter ex-parte.

5. Jurisdiction

The Panel's jurisdiction over this dispute between the Complainant and the Respondent is established by virtue of the Internet Domain Registration Policy version 4.4 (2019-08-19) and the Rules.

The Respondent applied for and was granted registration of the DDN on the basis of these regulations, and has submitted to, the PKNIC - Internet Domain Registration Policy version 4.4 (2019-08-19) and the Rules and correspondingly to the arbitral jurisdiction of the DNDRC and its arbitration decisions.

6. Discussion and Findings

In the landmark case of *Standard Chartered PLC v. Hosting Campus Domain* (case no. C2007-0001) available on the DNDRC website (http://www.dndrc.com/cases_resolved/pdf/c2007-0001.pdf), the Panel laid down the following four heads under which to analyze cases, under the Internet Domain Registration Policy version 4.4 (2019-08-19) and the UDRP:

1. *Illegality, unlawfulness or otherwise invalidity of the Application & Registration (a criteria in terms of the PKNIC - Internet Domain Registration Policy June 20, 2006 version 4.1 in addition to the criteria of the UDRP)*
2. *Identical or confusing similarity to a trademark or service mark in which the Complainant has rights (a UDRP criteria)*
3. *Legitimate interest in Domain Name (a UDRP criteria)*
4. *Registration and use in bad faith (a UDRP criteria)*

The decision of the dispute shall be addressed with respect to the following aspects:

- i. Illegality, unlawfulness or otherwise invalidity with respect to the Application & Registration (a PKNIC - Internet Domain Registration Policy version 4.4 (2019-08-19) criteria).
- ii. Identical or confusing similarity with a trademark or service in which the Complainant has rights (a UDRP criteria).
- iii. Legitimate interest in the domain name (a UDRP criteria).
- iv. Registration and use of the domain name in bad faith (a UDRP criteria).

I. Illegality, unlawfulness or otherwise invalidity of the Application & Registration

The PKNIC - Internet Domain Registration Policy version 4.4 (2019-08-19) states that it creates an exception for, and thus excludes the registration of a domain name that:

- a. *infringes upon a registered tradename,*
- b. *is not bona fide as recognized by international best practice,*
- c. *in the opinion of PKNIC, a contravention of the latest version of the Pakistan Penal Code Act, 1860 (including offences of defamation & blasphemy)/ Anti-Terrorism Act, 1997/any applicable criminal law,*
- d. *has been declared by a Criminal Court of appropriate jurisdiction to have contravened the latest version of Pakistan Penal Code Act, 1860 (including offences of defamation & blasphemy)/Anti-Terrorism Act, 1997/any applicable criminal law), or*
- e. *in the opinion of PKNIC is not appropriate for registration.*

As per the PKNIC - Internet Domain Registration Policy version 4.4 (2019-08-19),

If a party claims that a domain name already registered with PKNIC violates their registered tradename, an obvious derivation of their registered company name is not bona fide as recognized by international best practice, and is a contravention in the opinion of PKNIC to be a contravention of the latest version of the Pakistan Penal Code Act, 1860 (including offences of defamation & blasphemy)/ Anti-Terrorism Act, 1997/any applicable criminal law, PKNIC reserves the right to cancel, or transfer the domain to the claiming party as per the ICANN's Uniform Domain Name Dispute Resolution Policy [UDRP] (with PKNIC amendments) or as per the orders of a court judgment in Pakistan.

Therefore, for the purpose of assessing illegality, unlawfulness or otherwise invalidity of the Application & Registration of the Disputed Domain Name, the application and registration of the DDN shall be assessed in consideration of the following criteria:

- i. Whether the DDN infringes upon a registered trade name / trade mark?
- ii. Whether the application and/or registration of the DDN is bona fide?
- iii. Whether the application and/or registration of the DDN contravenes the Pakistan Penal Code, 1860 (the “Penal Code”) or any applicable criminal law?

The Complainant has not specifically contended that the registration of the DDN by the Respondent is illegal, unlawful, or otherwise invalid.

The Respondent has not provided a response.

The Complainant has provided copy of certificate of registration issued by the Government of Pakistan indicating that it has registered the word mark “Baseus” in Pakistan. The Panel finds that

the Complainant has submitted sufficient evidence that it has trademark rights in the word “Baseus”. The DDN does prima facie incorporate in its entirety the registered trademark of the Complainant.

In the absence of any information provided by the Respondent, the Panel is unable to infer whether the Respondent also has rights to the term “Baseus” that would indicate that the registration of the DDN by the Respondent was bona fide.

In view of the findings of the Panel that the DDN, which incorporates a registered trademark of the Complainant in its entirety, constitutes an infringement of the trademark of the Complainant in its entirety, the Panel, relying on the findings in *Standard Chartered PLC v. Hosting Campus Domain* (case no. C2007-0001), also finds that the registration will contravene relevant provisions of the Pakistan Penal Code.

The Panel therefore finds that the registration of the Disputed Domain Name is unlawful. The Panel may decide this Complaint on this basis alone. However, for the sake of completeness and procedural fairness, but not to create a binding precedent, this Panel shall also assess the Complaint in terms of the ICANN UDRP as amended by the PKNIC - Internet Domain Registration Policy version 4.4 (2019-08-19).

II. Identical or confusing similarity to a trademark or service mark in which the Complainant has rights

The Complainant has contended the following:

Founded in 2011, Baseus is a 3C digital accessory brand that integrates design, research and development, sales and production. The brand name Baseus evolved from the concept of base on user, representing the brand's focus on meeting user needs, creating practical and beautiful products, doing its part for the user and adding a sense of access. Since its inception, Baseus products have been chosen by more than 300 million users in over 100 countries and territories worldwide.

Between its inception and 2019, Baseus has undergone a phase of rapid growth. In 2012 alone, Baseus completed the opening of flagship shops on the main e-commerce platforms in China, as well as extending its product coverage to many countries and regions overseas. The Complainant searched YOUTUBE videos and found that between 2015 and 2018, a variety of media outlets, reviewers, and users posted multiple Baseus product review videos with more than hundreds of thousands of cumulative views (Annex 6 The

Complainant's early YOUTUBE review video). 2015-2018 saw Baseus maintain leading sales on overseas ecommerce platforms, establishing a leading position in the industry (Annex 7 Some of the sales records of Early Baseus products on cross-border e-commerce platforms). In 2016, Baseus opened an official AliExpress shop. In 2019, Baseus opened its official flagship shop on Ebay, where it has sold 152,000 products so far (Annex 8 The Complainant's sales records on AliExpress and Ebay). Between 2018 and 2019, the Complainant actively participated in relevant industry exhibitions in various countries and regions and increased its promotional efforts globally (Annex 9 Pictures of the Complainant's participation in exhibitions between 2018 and 2019).

In 2019, Baseus released the world's first multi-interface gallium nitride fast charger by taking the lead and through its strong R&D strength and accumulated foundation in the consumer electronics market, which has since pioneered the multi-port gallium nitride fast charger, and later launched a variety of gallium nitride fast chargers with small size and high power. Gradually, GaN fast chargers have become well known and are becoming the mainstream choice in the consumer electronics sector. In order to improve the competitiveness of the products, Baseus has set up a self-inspection laboratory at no cost to ensure the quality of the products.

At the same time, Baseus also cooperates with many chip manufacturers and solution providers to participate in standard setting and technical support, providing technical accumulation for its own fast charging products; it also cooperates with mobile phone companies such as Huawei and OPPO to obtain the authorization of fast charging protocols from various mobile phone manufacturers to achieve full protocol fast charging, which is of great value to the fast charging charger industry (Annex 10 Introduction to the collaboration between Baseus and HUAWEI).

In 2021, Baseus was awarded the "Guangdong Engineering Technology Centre". At the same time, Baseus has been awarded the "Top 20 China Overseas Brands", "Top 10 China Overseas Brands", "the Red Dot Award" and "the IF Award" several times in a row (Annex 11 Awards received by Baseus).

As at 1 April 2022, Baseus had filed a total of 1,405 patent applications, including 41 inventions, 511 utility models and 853 design patents. According to omnichannel research conducted by international research authority Euromonitor International in North America, Asia Pacific, Europe and other analysts, Baseus is the world's leading brand in Gallium Nitride fast charger sales with 90 million units sold worldwide in 2021. In April 2022, the Complainant received the honour of the global leading brand of GaN fast

chargers from Euromonitor International (Annex 12 Data from Euromonitor International with GaN fast's post on facebook).

Based on the above, it can be seen that 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 and has become highly recognisable in the world. By searching Baseus on google, you can see that all the results point to the Complainant (Annex 13 Search Engine Search Results). It follows that Baseus has a unique correspondence with the Complainant.

The Complainant believes that when comparing the disputed domain name and the Complainant's trademark in this case, the relevant comparison should only focus on the second-level part of the domain name (the main identifying part mentioned below) and the Complainant's trademark. The Complainant believes that the meaning of the suffix '.com.pk' does not affect the determination of the first element in this case, the country code top-level domain suffix '.com.pk' does not have the capacity to distinguish the disputed domain name from the Complainant's prior rights (See Annex 14 WIPO Case No. D2017-0275). The disputed domain name baseusstore.com.pk removes the suffix '.com.pk', and the remaining part is baseusstore, the English word store is a generic word that lacks significance, which is not compared with the trademark in this case to determine confusion. Therefore, the main identifying part of the disputed domain name is baseus, which is completely consistent with the Complainant's English trademark Baseus. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the domain name to determine whether the domain name is confusingly similar to the trademark. The test involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the domain name. Obviously, the disputed domain name baseusstore.com.pk completely contains the Complainant's Baseus trademark. The Complainant submits that the Disputed Domain Name contains all or at least one of the main features of the Complainant's Baseus trademark and is likely to cause confusion.

The Respondent has not submitted a response.

It is an established principle that the incorporation of a Complainant's trademark in full within a disputed domain name may be sufficient to establish confusing similarity between the mark and the disputed domain name.

The disputed domain name <baseusstore.com.pk> is, in its main part, identical to the Complainant's trademark Baseus which is duly registered, as evidenced by the Complainant, in an important number of jurisdictions throughout the world, as well as Pakistan.

This panel finds that the addition of the generic name "store" does not avoid confusion: see *Ansell Healthcare Products Inc. v. Australian Therapeutics Supplies Pty, Ltd.*, Case No. D2001-0110 (WIPO. April 2, 2001). The incorporation of a Complainant's well-known trademark in the registered domain name is considered sufficient to find the domain name confusingly similar to the Complainant's trademark.

The Complainant has also crucially relied on a precedent set by another Panel, wherein it was determined that the incorporation of the Complainant's trademarks as the main and most important elements in domain names establishes the presence of identity or confusing similarity between the trademarks and the domain names. This Panel concurs that this precedent should be applicable in the present case.

The Complainant has provided sufficient information, including annexing evidence of the same, that the Complainant has rights in the trademark "Baseus" in Pakistan. The addition of the ccTLD ".pk" would also not prevent the finding of confusing similarity.

The Respondent has not submitted any contention. In the absence of any valid explanation of how the DDN is not confusingly similar to the trademark of the Complainant, the Panel finds confusing similarity between the DDN and the Complainant's trademark under paragraph 4(a)(i) of the Policy.

III. Legitimate interests in a domain name

As per paragraph 4(c), the UDRP requires the Respondent's claim to be of legitimate interest and shall be:

"proved based on all evidence presented" that "shall demonstrate" the Respondent's "rights or legitimate interests to the domain name for purposes of Paragraph 4(a)(ii)."

Paragraph 4(a)(ii) states that:

"(i) before any notice to you of the dispute, your use 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) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

The Complainant has contended:

The disputed domain name effectively impersonates or suggests sponsorship or endorsement by the owner of the trademark and does not constitute fair use (Annex 15 Screenshot of the website pointed to by the disputed domain name).

The Complainant searched various national and regional trademark databases in the name of the Respondent and did not find that the Respondent had trademark rights in the name of Baseus. According to the Complainant’s feedback, the Respondent is not in the identity of the Complainant’s distributor or partner. The Complainant has never directly or indirectly authorized the Respondent to use the trademarks Baseus and the corresponding domain names in any form.

The name of the Respondent is privacy. Obviously, it is impossible for him to enjoy the name rights for Baseus.

In summary, the Respondent does not have any rights or legitimate interest in the domain name.

The Respondent has failed to respond, and resultantly satisfy the Panel that the Respondent is commonly known by the name of “Baseus” or has any legitimate interest in the DDN.

As has been previously adopted by the discussions and findings in WIPO authorities, it is for the Respondent to rebut the allegations put forth by the Complainant after the Complainant establishes a prima facie case about the lack of legitimate interest in a disputed domain name. Also, with respect to proving rights or legitimate interests in the disputed domain name(s), it is for the Respondent to submit evidence pertaining to the same as it would be extremely difficult, if not impossible, for the Complainant to prove a negative assertion. As such, in order to satisfy the Panel that it has rights or legitimate interests to the DDN, the Respondent was obliged to respond and submit evidence with respect to the same.

The Complainant has indicated that it is in use of the name “Baseus” and has registered trademarks, demonstrating a prima facie case of legitimate interest in the DDN.

The Complainant has asserted that the use of the DDN by the Respondent impersonates or suggests sponsorship or endorsement by the owner of the trademark. The Complainant has also clarified that it has never authorized the Respondent to use the Baseus trademark or corresponding domain names in any form. The Respondent’s use of the DDN to sell products similar to the complainant’s creates a false impression in relation to the source of the Respondent’s website. The Panel finds that the Respondent’s use of the DDN is not bona fide: see *Guangdong OPPO Mobile Telecommunications Corp., Ltd. / Realme Chongqing Mobile Telecommunications Corp., Ltd. v. Rahul Kumawat*, Case No. D2019-0478 (WIPO. April 23, 2019).

In the absence of any information provided by the Respondent in support of his legitimate interest in the DDN, the Panel finds that the Respondent does not have rights to or a legitimate interest in the DDN pursuant to paragraph 4(a)(ii) of the Policy.

IV. Registration and use in bad faith

The Complainant has made the following submission:

The disputed domain name was applied for on Jun 15, 2023, prior to which the Baseus brand had already achieved a high level of global recognition. Accordingly, considering that Baseus is predominantly an ecommerce sales channel and that the power of the internet to spread is very high. The Complainant submits that the location of the Respondent does not affect the Panelist's finding that the Respondent was aware of the existence of the Complainant's Baseus mark prior to the registration of the domain name. The .PK Registry has adopted the Uniform Domain Name Dispute Resolution Policy, which does not oblige the Complainant to provide prior rights to a trademark within Pakistan. This is despite the fact that the Complainant had acquired rights in the baseus trademark in 2021 within Pakistan (See Annex 5). In addition, the Complainant has provided information on some of the orders for Baseus products sold in Pakistan (Annex 16 Purchase reviews from e-commerce platforms in Pakistan). The Complainant submits that the discussion of prior rights in this case should take into account the Complainant's worldwide trademark rights and use, not just the rights and use of a trademark in a single country.

In the case that the Complainant’s trademark is highly distinctive and well-known, there is almost no chance that the disputed domain name will be coupled with it. According to the

Complainant's investigation of the disputed domain name, it was found that the content of the website it pointed to overlapped with the project operated by the Complainant (See Annex 15). This clearly shows that the Respondent knew or should have known the Complainant's business name and trademark when registering the domain name.

The Complainant believed that the Respondent did not avoid the Complainant's trademark when he knew or should have known the Complainant's trademark, and the act of choosing to apply for a domain name was malicious. Prior panels have found that knowledge, actual or inferred, of a strong mark is evidence of registration in bad faith. See Annex 17 WIPO Case No. D2014-1693 (The Complainant's worldwide reputation, and presence on the Internet, indicates that Respondent was or should have been aware of the marks prior to registering the Disputed Domain Name). The Complainant believed that the Respondent's application for domain name was governed by the "Policy" Article 4(b) stipulates that the fact that the disputed domain name has been "registered in bad faith" shall be determined.

As described in the previous paragraph, the Respondent has pointed the disputed domain name to a website related to the Complainant's business, and the content of the website also appeared several times with the Complainant's Baseus trademark (See Annex 15). The Complainant submits that the Respondent's use of the disputed domain name to deliberately imitate the Complainant's Baseus brand for profit is consistent with Policy 4B(iv) : by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site 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 your web site or location or of a product or service on your web site or location. And in conjunction with the bad faith use described above, it is possible to in turn find that the Respondent acted in bad faith at the time of registration of the domain name.

In summary, the Complainant firmly believes that the Respondent has registered and used the disputed domain name in bad faith.

The Respondent has failed to submit a response.

The Complainant and its trademark "Baseus" have been well-known and the Respondent may have known about them when registering the DDN. The Complainant has submitted that the DDN is being used in bad faith. On the other hand, the Respondent has failed to provide any information to rebut the contention of the Complainant.

The Complainant has asserted that the Respondent used the DDN for a website related to the Complainant's business. The Complainant has submitted evidence that the content of the website also featured the Complainant's Baseus trademark multiple times, thereby imitating the Complainant's Baseus brand for profit. The Complainant has provided sufficient information, including annexing evidence of the same.

The Complainant has crucially relied on a precedent set by another Panel to establish that the Respondent's registration of the DDN was in bad faith. According to this precedent, it was held that, "...knowledge, actual or inferred, of a strong mark is evidence of registration in bad faith..." Furthermore, the same precedent states that the use of a disputed domain name for commercially benefiting from the goodwill associated with a mark is considered bad faith. See *eBay Inc. v. Renbu Bai*, Case No. D2014-1693, (WIPO, November 21, 2014). The Panel concurs that this precedent should be applicable in the present case.

The Panel finds that the Baseus mark of the Complainant had considerable popularity and was well-known for the period that the Respondent has been using the mark. The Respondent did not provide any submission that it was not aware about the Complainant or its business at the time of registration of the DDN. The Panel, therefore, in the absence of any submission to the contrary by the Respondent, finds that the DDN was registered and is being used in bad faith by the Respondent.

7. Decision

Analyzing the details provided by the Complainant, the Panel perceives that the Baseus mark has been registered by the Complainant, hence the Complainant reserves crucial interest in such mark. Usage of these marks by the Respondent could endanger the reputation that the Complainant has worked hard at building and maintaining and result in confusion as to the registrant of the Disputed Domain Name.

Taking all the discussion above into consideration, the Panel concludes and decides that:

1. The Respondent's registration of the DDN is contrary to the PKNIC - Internet Domain Registration Policy version 4.4 (2019-08-19)
2. The Respondent has no legitimate interest in the DDN.
3. The DDN is identical to the Complainant's trademark/names and registered domain names.
4. The DDN was registered and being used in bad faith.

Pursuant to Section 4 of the Policy, the Panel, therefore, recommends that PKNIC transfer the registration of the domain name in dispute <baseusstore.com.pk> to the Complainant, as prayed, within 48 hours of receipt of this decision either by email or through the website where it will be uploaded, www.dndrc.com/cases_resolved/, whichever is earlier. The Complainant shall also be at liberty to contact PKNIC for implementation of this decision.

Arbitrator: Mr. Umer Shariq

Sole Panelist

Date: 19 December 2023