

## ADMINISTRATIVE PANEL DECISION

Skorpio Limited v. Rgtgtt Qgrrd, Tfvge Xgyeo  
Case No. D2023-0678

### 1. The Parties

The Complainant is Skorpio Limited, Switzerland, represented by Keltie LLP, United Kingdom.

The Respondents are Rgtgtt Qgrrd, Hong Kong, China, and Tfvge Xgyeo, Hong Kong, China.

### 2. The Domain Names and Registrar

The disputed domain names <rickowensfr.store> and <shoprickowens.com> (the “Domain Names”) are registered with Name.com, Inc. (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 14, 2023. On February 15, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On February 16, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names, which differed from the named Respondent (英熊) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 17, 2023, providing the registrant and contact information for multiple underlying registrants disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on February 23, 2023.<sup>1</sup>

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on February 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 21, 2023.

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<sup>1</sup> The Complainant removed the domain names <rickowensfr.com>, <rick-owens.shop>, <rickowenstru.com>, and <rick-owensoutlet.xyz> from the Complaint upon receipt of the Center’s email of multiple underlying registrants.

The Center appointed Gregor Vos as the sole panelist in this matter on March 31, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

The Complainant is a Swiss company that manages the intellectual property rights of fashion designer Rick Owens. Rick Owens has won numerous awards for his designs and has stores in *inter alia* Paris, New York and London.

The Complainant is the owner of *inter alia* the following trademark registrations (hereafter jointly referred to as: the "Trademarks"):

- European Union trademark registration No. 002493294 for RICK OWENS registered on May 21, 2003;
- European Union trademark registration No. 008209736 for RICK OWENS registered on November 2, 2009.

The Domain Name <shoprickowens.com> was registered on May 31, 2022. The Domain Name <rickowensfr.store> was registered on July 15, 2022. Currently, the Domain Names resolve to active websites on which goods are offered for sale and on which the Complainant's Trademarks are depicted.

#### **5. Parties' Contentions**

##### **A. Complainant**

With the Complaint, the Complainant seeks that the Domain Names are transferred to the Complainant. The Complaint is based on the following factual and legal grounds: the Domain Names are identical or confusingly similar to the Trademarks of the Complainant, the Respondents have no rights or legitimate interests in the Domain Names, and the Domain Names have been registered and are being used in bad faith.

Firstly, according to the Complainant, the Domain Names are identical to the famous Trademarks. The Trademarks are incorporated in the Domain Names in their entirety with the mere addition of additional non-distinctive elements, such as the letters "FR" that refer to the country France, that reinforce the impression that the Domain Names are connected with the Complainant.

Secondly, according to the Complainant, the Respondents have no rights or legitimate interests in the Domain Names. The Respondents do not own any trademarks that reflect the Domain Names and are not commonly known by the Domain Names. Moreover, the Complainant has not permitted the Respondents to use its Trademarks, or to apply for any domain name incorporating the Trademarks.

Finally, according to the Complainant, the Respondents have registered and are using the Domain Names in bad faith. It is apparent from the composition of the Domain Names that the Respondents must have known of the Complainant's Trademarks and the reputation of its business. Further, on the websites to which the Domain Names resolve, counterfeit goods are offered for sale displaying the Trademarks, which constitutes trademark infringement. It has been consistently held that this is use in bad faith of a disputed domain name.

##### **B. Respondents**

The Respondents did not reply to the Complainant's contentions.

## 6. Preliminary Procedural Issue: Consolidation of Multiple Domain Names and Respondents

The Panel will first deal with the question of whether the different domain name disputes should be consolidated in single proceeding.

The consolidation of multiple domain name disputes under paragraphs 3(c) or 10(e) of the Rules may be appropriate where the particular circumstances of a case indicate that common control is being exercised over the disputed domain names or the websites to which the domain names resolve and the panel, having regard to all of the relevant circumstances, determines that consolidation would be procedurally efficient and fair and equitable to all parties.

*Indicia* of common control have been found based on commonalities in registrant information, such as shared administrative or technical contacts and shared postal or email addresses, as well as other circumstances in the record indicating that the respondents are related or that a sufficient unity of interests otherwise exists that they may be essentially treated as a single domain name holder for purposes of paragraph 3(c) of the Rules (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2; *Speedo Holdings B.V. v. Programmer, Miss Kathy Beckerson, John Smitt, Matthew Simmons*, WIPO Case No. [D2010-0281](#)).

In the present case, the Panel finds that the consolidation of the domain name disputes is justified. First, both Domain Names incorporate the Trademarks in their entirety with the addition of a term or letters. Second, both Domain Names are registered with same Registrar and mentioning the same postal code and (likely non-existent) telephone number. Finally, the Respondent has not objected to consolidation of the domain name disputes.

Therefore, the Panel finds, having regard to all relevant circumstances, that the Domain Names are under common control and that it is procedurally efficient and fair and equitable to all Parties when the domain name disputes are consolidated.

## 7. Discussion and Findings

In view of the lack of a response filed by the Respondents as required under paragraph 5 of the Rules, this proceeding has proceeded by way of default. Hence, under paragraphs 5(f), 14(a) and 15(a) of the Rules, the Panel is directed to decide this administrative proceeding on the basis of the Complainant's undisputed factual presentations.

For the Complainant to succeed, it must prove, within the meaning of paragraph 4(a) of the Policy and on the balance of probabilities that:

- i. the Domain Names are identical or confusingly similar to a trademark or a service mark in which the Complainant has rights; and
- ii. the Respondents have no rights or legitimate interests in respect of the Domain Names; and
- iii. the Domain Names have been registered and are being used in bad faith.

Only if all three elements have been fulfilled, the Panel is able to grant the remedies requested by the Complainant. The Panel will deal with each of the requirements in turn.

### A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the Domain Names are (i) identical or confusingly similar to a trademark or service mark, (ii) in which the Complainant has rights.

With respect to having rights pursuant to paragraph 4(a)(i) of the Policy, it is noted that the Complainant is registered as the owner of the Trademarks. Consequently, the Panel finds that the Complainant has proven that it has rights in the Trademarks.

With regard to the assessment of identity or confusing similarity of the Domain Names with the Trademarks, it is generally accepted that this test involves a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name. In cases where a domain name incorporates the entirety of a trademark the domain name will normally be considered confusingly similar to that mark (see section 1.7 of the [WIPO Overview 3.0](#)).

In the present case, the Trademarks are incorporated in their entirety and clearly recognizable in the Domain Names. The addition of the generic Top-Level Domains ".com" and ".store", and the elements "shop" and "fr" respectively does not prevent a finding of confusing similarity with the Trademarks (see sections 1.8 and 1.11 of the [WIPO Overview 3.0](#)). Consequently, the Panel finds that the requirement under paragraph 4(a)(i) of the Policy has been satisfied.

## **B. Rights or Legitimate Interests**

The second requirement the Complainant must prove is that the Respondents have no rights or legitimate interests in the Domain Names. The onus of proving this requirement, like each element, falls on the Complainant. Given the difficulty in proving a negative, however, it is usually sufficient for a complainant to make out a *prima facie* case that a respondent lacks rights or legitimate interests. If a complainant does establish a *prima facie* case, the burden of production shifts to the respondent (see e.g. [WIPO Overview 3.0](#), section 2.1; *Sanofi v. Cimpress Schweiz GmbH*, WIPO Case No. [D2017-0522](#)).

Paragraph 4(c) of the Policy lists three non-limitative examples of instances in which a respondent may establish rights or legitimate interests in the disputed domain name.

The Complainant has substantiated that none of these circumstances apply in this case. By defaulting, the Respondents have failed to address the *prima facie* case thus established by the Complainant. Furthermore, based on the record before it, the Panel does not see an indication that any of the circumstances of paragraph 4(c) of the Policy is present.

Accordingly, the Panel finds that the Respondents have no rights or legitimate interests in respect of the Domain Names. Paragraph 4(a)(ii) is thereby fulfilled.

## **C. Registered and Used in Bad Faith**

Under paragraph 4(a)(iii) of the Policy, a complainant must show that the disputed domain name has been registered and being used in bad faith. Paragraph 4(b) of the Policy lists four non-limitative circumstances which may be considered as evidence of registration and use in bad faith of a domain name.

In the present case, the Trademarks are registered by the Complainant and have been used for many years. The Complainant's rights to the Trademarks predate the registration dates of the Domain Names. The Panel agrees with the Complainant that based on the record before it, it is not conceivable that the Respondents chose the Domain Names without knowledge of the Complainant's activities and its Trademarks under which the Complainant is doing business in light of the Complainant's reputation in the field of fashion (see e.g. *Skorpio Limited v. Ma Liang*, WIPO Case No. [D2012-2045](#); *Skorpio Limited v. Milen Radumilo*, WIPO Case No. [D2018-0368](#)). This is reinforced by the fact that the Trademarks are incorporated in their entirety in the Domain Names and that the Trademarks are depicted on the websites to which the Domain Names resolve.

In light of the lack of any rights or legitimate interest in the Domain Names by the Respondents, and in the absence of any conceivable good faith use of the Domain Names, the Panel finds from the present circumstances that the Respondents have intentionally sought to take unfair advantage of or otherwise abuse the Trademarks.

With regard to use of the Domain Names in bad faith, the Panel finds that the use of the Trademarks in the Domain Names signals an intention on the part of the Respondents to confuse Internet users into thinking that the Domain Names are connected to the Complainant (section 3.2.1 of the [WIPO Overview 3.0](#)). This is reinforced by the fact the Respondents do not provide any information on their (non-existent) relationship with the Complainant, thus creating the false impression of an affiliation with the Complainant.

Therefore, the Panel finds that the Domain Names have been registered and are being used in bad faith and that the third element of paragraph 4(a)(iii) of the Policy is fulfilled.

## **8. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Names <rickowensfr.store> and <shoprickowens.com> be transferred to the Complainant.

*/Gregor Vos/*

**Gregor Vos**

Sole Panelist

Date: April 14, 2023