

ADMINISTRATIVE PANEL DECISION

The Absolut Company Aktiebolag v. Joseph Ralph
Case No. D2023-5264

1. The Parties

The Complainant is The Absolut Company Aktiebolag, Sweden, internally represented.

The Respondent is Joseph Ralph, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <absolutalcohol.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 18, 2023. On December 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 19, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 19, 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 amendment to the Complaint on January 3, 2024. On the same day, the respondent sent an email communication to the Center.

The Center verified that the Complaint together with the amendment to the 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 January 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 24, 2024. The Respondent sent email communications to the Center on January 4, 2024.

The Center appointed John Swinson as the sole panelist in this matter on February 1, 2024. 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 part of the Pernod Ricard group of companies. Pernod Ricard is a French company and is one of the world's largest distributors of premium liquor.

The Complainant has the responsibility for the production, packaging innovation and strategic marketing of Absolut vodka, Malibu and Kahlúa. Absolut vodka is a leading premium vodka, sold worldwide.

The Complainant owns many registered trademarks for ABSOLUT, including United States Registration No. 1302003 with a registration date of October 23, 1984.

The Complainant owns domain name registrations that include the term ABSOLUT, including <absolut.com> that is used by the Complainant to promote Absolut vodka.

The disputed domain name was registered on February 15, 2023.

The Respondent did not file a formal Response so little information is known about the Respondent. According to the Registrar's records, the Respondent has an address in New York (at a street that does not appear to exist) but with a zip code from Louisiana.

According to the Complaint, before the Complaint was filed, the website at the disputed domain name was an online shop displaying the Complainant's trademarks including an image of a prior product of the Complainant. The website purportedly offers for sale the Complainant's trademarked goods. The website does not appear to display any disclaimer prominently and accurately regarding the relationship between the Complainant and the Respondent. The website has contact details for the Respondent, which appears to be a false address in Paris, France. However, the Complaint did not include a copy of this website or any evidence to support these assertions in the Complaint. The Panel has searched with Google the disputed domain name, and notes that the results include several links to webpages at the disputed domain name with snippets containing references to products that seemed to have been available for purchase through the website at the disputed domain name. The Panel further notes from the snippets, and the images connected to the website at the disputed domain name, that several of the products were unrelated to the Absolut vodka.

At the date of this decision, the disputed domain name resolves to a Registrar-generated parking page that includes pay-per-click ("PPC") links for liquor and food delivery services.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that given the distinctiveness of the Complainant's widespread reputation, the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark and that the continued holding of the disputed domain name is in bad faith.

As the Respondent uses a false address and contact details on its website, this also suggests bad faith registration and use. See for example *Robert Bosch GmbH v. Rui Gao*, WIPO Case No. [D2023-2009](#).

B. Respondent

The Respondent did not fill a formal Response but sent three emails to the Center. The emails were not clear. For example, one email stated:

“What’s wrong with this domain I am not getting. Why you guys filed a complain. I paid for this domain and I have full rights to own it.”

Another email stated:

“If this domain despite is happened. Am i getting the settlement amount of USD1000 to release the domain?”

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

The onus of proving these elements is on the Complainant.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, “alcohol”) may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with

relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Complainant states, but provides no evidence to demonstrate, that the Respondent operated an online website purporting to sell alcohol, including the Complainant's products. This raises the question of whether the Respondent has rights under the principles set out in *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#). The Complainant states, but provides no evidence, that the Respondent did not accurately disclose the Respondent's relationship with the Complainant or include any disclaimers. The Respondent does not address this. Due to the lack of evidence before the Panel, the Panel does not find that the *Oki Data* factors apply to assist the Respondent in this case. The Panel further notes that a Google search of the disputed domain name shows that the website at the disputed domain name included references to Absolut vodka, but it was purporting to be also selling products unrelated to the Absolut vodka, and such use cannot give rise to rights or legitimate interests in the disputed domain name.

Currently, the website at the disputed domain name resolves to a Registrar generated parking page with PPC links. Use of a domain name to resolve to a PPC advertising page, where the advertising is relevant to the trademark value of the domain name, does not establish rights or legitimate interests in respect of the disputed domain name. *American Farm Bureau Federation v. Portfolio16 Management Ltd.*, WIPO Case No. [D2023-1310](#).

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Respondent's conduct demonstrates the Respondent's knowledge of the Complainant and the Complainant's trademark. By registering the disputed domain name which includes the Complainant's famous trademark along with the word "alcohol", and then using the disputed domain name operate an online liquor store or online PPC website, demonstrates that the Respondent specifically knew of and targeted the Complainant.

The Respondent also used an apparently false address as set out in the Registrar's records, and allegedly (at one time) on the website at the disputed domain name.

The Respondent has not filed a formal Response and hence has not availed itself of the opportunity to present any case of good faith that it might have. The Respondent's email communications do not show any relevant arguments to support a good faith registration or use of the disputed domain name. The Panel infers that none exists.

The Panel finds that the Respondent has intentionally attempted to attract for commercial gain Internet users to its website by creating likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the website under paragraph 4(b)(iv) of the Policy. This also could disrupt the business of the Complainant.

The Panel finds that the Complainant has established the third element of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <absolutalcohol.com> be transferred to the Complainant.

/John Swinson/

John Swinson

Sole Panelist

Date: February 17, 2024