

ADMINISTRATIVE PANEL DECISION

Fiere Internazionali Di Bologna S.P.A. Bolognafiere (Bolognafiere S.P.A.) v.
瞿国风 (Qu Guo Feng)
Case No. D2024-0523

1. The Parties

The Complainant is Fiere Internazionali Di Bologna S.P.A. Bolognafiere (Bolognafiere S.P.A.), Italy, represented by Dr. Modiano & Associati S.p.A., Italy.

The Respondent is 瞿国风 (Qu Guo Feng), China.

2. The Domain Name and Registrar

The disputed domain name <cosmoprof.company> is registered with DNSPod, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on February 5, 2024. On February 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 21, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. The Center sent an email communication to the Complainant on February 21, 2024, 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 in English on February 22, 2024.

On February 21, 2024, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On February 22, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not comment on the Complainant's request.

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 in English and Chinese of the Complaint, and the proceedings commenced on February 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 21, 2024.

The Center appointed Rachel Tan as the sole panelist in this matter on April 2, 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 a company incorporated in Italy with its principal place of business in Bologna, Italy. The Complainant is one of Europe's leading exhibition organizers that hosts trade fairs and other events every year. The Complainant claims to have used the COSMOPROF mark for events in the beauty trade fair business since December 1967. In 2018, over 10,000 exhibitors and 500,000 visitors attended COSMOPROF events hosted by the Complainant.

The Complainant is the owner of the COSMOPROF mark in various jurisdictions. For example, Italian Registration No. 0001151200 for COSMOPROF registered on November 7, 2008 in Class 16, International Registration No. 631282 for COSMOPROF registered on September 14, 1994 in Classes 35, 41, 42, designating, inter alia, China, and United States of America Registration No. 1988179 for COSMOPROF registered on July 23, 1996 in Class 35.

The Complainant is the registrant of numerous domain names incorporating the COSMOPROF mark, for example, <cosmoprof.it> registered on August 29, 1996 and <cosmoprof.com> registered on September 2, 1996. The Complainant has used its COSMOPROF mark on its websites for over 20 years.

The disputed domain name was registered on December 26, 2023. Based on the evidence submitted by the Complainant, the disputed domain name resolved to a website that features the Complainant's COSMOPROF mark and sells beauty and personal care products at the time of the Complaint. The website also displayed messages stating that the Respondent organizes shows annually under the name COSMOPROF. At the time of this Decision, the disputed domain name does not resolve to any active website.

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 the disputed domain name is identical or confusingly similar to the Complainant's COSMOPROF mark. The Complainant's COSMOPROF mark is incorporated in the disputed domain name in its entirety. The additional generic Top-Level Domain ("gTLD"), i.e. "company" does not prevent a finding of confusing similarity.

The Complainant further alleges that the Respondent has no rights or legitimate interest in respect of the disputed domain name. The Respondent has not received any agreements, authorizations, or licenses to use the Complainant's COSMOPROF mark. There is no plausible explanation to justify the Respondent's registration and/or use of the disputed domain name. There is no evidence that the Respondent is known under the COSMOPROF and/or similar names. The manner in which the disputed domain name is being used suggests that the Respondent is misleading internet users into believing that the website is affiliated to

and/or authorized by the Complainant and thus, the Respondent did not make any bona fide use of the disputed domain name.

Finally, the Complainant argues that the disputed domain name was registered and used in bad faith. The Complainant has established well-known status in its COSMOPROF mark through massive advertising and offering quality products and services under the mark. Given the well-known status of the Complainant's COSMOPROF mark, the Respondent could not credibly argue that it did not have knowledge of the Complainant at the time of registering the disputed domain name. In addition, the Respondent used the disputed domain name to host a website that features the Complainant's COSMOPROF mark and contains misleading information. Such use is a strong inference of bad faith registration and use of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that (i) the content displayed on the website at the time of Complaint was entirely in English; (ii) the currency displayed on the website at the time of Complaint was dollar sign "\$" instead of Chinese currency; (iii) the Respondent claimed to have organized shows in the Americas on the website; (iv) the disputed domain name is registered in English characters; (v) the Respondent's email is composed of English characters; (vi) English is the common language being used internationally; (vii) the Complainant is not familiar with Chinese and conducting proceedings in Chinese would add significant additional cost to the Complainant and delay in the proceedings.

The Respondent did not object to the Complainant's request or make any specific submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2 Substantive Issues

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 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 identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Further, it is permissible for the Panel to disregard the applicable gTLD in the disputed domain name, i.e. “.company”. It is accepted by UDRP panels that the practice of disregarding the TLD in determining identity or confusing similarity is applied irrespective of the particular TLD (including with regard to “new gTLDs”) and the ordinary meaning ascribed to a particular TLD would not necessarily impact assessment to the first element. See [WIPO Overview 3.0](#), sections 1.11.1 and 1.11.2. See also *O2 Worldwide Limited v. Domains By Proxy, LLC / Rodrigo P Braga, Ypse IT Solutions*, WIPO Case No. [D2019-0124](#).

Based on the available record, 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 Respondent has not provided evidence of a legitimate or noncommercial use of the disputed domain name or reasons to justify the choice of the disputed domain name that is identical to the Complainant’s COSMOPROF marks. There is also no indication to show that the Respondent is commonly known by the disputed domain name or otherwise has rights or legitimate interests in it. Moreover, the Complainant has not granted the Respondent any license or authorization to use the Complainant’s COSMOPROF mark or register the disputed domain name.

At the time of this Decision, the disputed domain name does not resolve to an active website. Based on the undisputed submission and evidence provided by the Complainant, the disputed domain name previously resolved to a website which allegedly offered products and prominently displayed the Complainant’s COSMOPROF mark. The website also contained misleading information that the Respondent organized shows under COSMOPROF mark. The website did not accurately and prominently disclose the lack of a relationship between the Complainant and the Respondent. Therefore, the facts do not support a claim of fair use under the “Oki Data test”. See *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#).

Furthermore, the nature of the disputed domain name being identical to the Complainant’s mark carries a high risk of implied affiliation. See section 2.5.1 of the [WIPO Overview 3.0](#).

None of the circumstances in paragraph 4(c) of the Policy are present in this case. For these reasons, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

Based on the available record, 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.

In the present case, the Panel notes that the well-known status of the Complainant's COSMOPROF mark was recognized in *BolognaFiere S.p.A v. Domainproxyagent.com/Compsys Domain Solutions Private Limited*, WIPO Case No. [D2009-0391](#); *BolognaFiere Cosmoprof S.p.A. v. Hamidreza Ahmadi Ashtiani*, WIPO Case No. [DCO2023-0046](#). The disputed domain name was registered long after the registration of the Complainant's COSMOPROF mark. Search results using the key word "Cosmoprof" on Internet search engines direct Internet users to the Complainant and its business, which indicates that exclusive connections between the COSMOPROF mark and the Complainant have been established. The Panel further notes that the inherently misleading disputed domain name previously resolved to a website displaying the Complainant's COSMOPROF mark and the Respondent allegedly claimed himself to be an event organizer on the website without any disclaimer disclosing the (lack of) relationship between the Parties. As such, the Respondent clearly knew of the Complainant's COSMOPROF mark when registering the disputed domain name, see section 3.2.2 of the [WIPO Overview 3.0](#).

The Panel is of the view 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 COSMOPROF mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. This demonstrates bad faith registration and use of the disputed domain name, as provided in paragraph 4(b)(iv) of the Policy.

Taking into account these circumstances, the Panel finds that the Respondent must have known of the Complainant before registering the disputed domain name and, considering the Respondent's lack of rights or legitimate interests, and by registering and using the disputed domain name as discussed above, the Panel is led to conclude that the disputed domain name was registered and is being used in bad faith.

Furthermore, under the circumstances of the case, the Panel considers that the current non-use of the disputed domain name does not prevent a finding of bad faith. [WIPO Overview 3.0](#), section 3.3.

Based on the available record, 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 <cosmoprof.company> be transferred to the Complainant.

/Rachel Tan/

Rachel Tan

Sole Panelist

Date: April 16, 2024