

ADMINISTRATIVE PANEL DECISION

SELLE ITALIA S.R.L. v. Gene viaHO

Case No. D2024-2556

1. The Parties

The Complainant is SELLE ITALIA S.R.L., Italy, represented by Studio Legale Corsini, Italy.

The Respondent is Gene viaHO, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <selleitelia.com> (the “Domain Name”) is registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 24, 2024. On June 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On June 25, 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 verified that 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 July 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 22, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 25, 2024. On July 30, 2024, due to an apparent issue with the notification, the Center granted the Respondent a five day period in which to indicate whether it wished to participate to this proceeding. The Respondent did not submit any email communication or response.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on August 15, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant manufactures bicycle saddles and accessories through its brands “Selle Italia”, “Selle San Marco” and “idmatch”. Its history dates back to 1897. The Complainant distributes its products in Italy and internationally through agents and direct sales.

The Complainant owns several trademark registrations for SELLE ITALIA, such as International trademark No. 1569239 (registered on July 17, 2020) and European Union trademark No. 18138525 (registered on March 17, 2022). The Complainant also owns domain names including the trademark SELLE ITALIA, such as <selleitalia.it> registered in 1996.

The Domain Name was registered on January 31, 2024. The Domain Name appears not to have resolved to any active webpage, but it has been used to set up email accounts. The email accounts have been used by the Respondent to target the Complainant’s customers with fraudulent emails containing fake invoices.

5. Parties’ Contentions

A. Complainant

The Complainant provides evidence of trademark registrations before the Domain Name was registered. The Complainant argues that the Domain Name is an intentional misspelling of the Complainant’s trademark.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Respondent has used the Domain Name to illicitly obtain the payments by targeting the Complainant’s customers through email accounts set up from the Domain Name.

Given the use of the Domain Name to send fraudulent emails, the Complainant argues that the Respondent has registered and used the Domain Name with full knowledge of the Complainant’s trademark. Moreover, the Domain Name is identical to the Complainant’s trademark save the letter “a” is replaced by an “e”. This is clear typosquatting.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trademark and the Domain Name. Where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 1.7.

The Complainant has established that it has rights in the trademark SELLE ITALIA. The Domain Name is identical to the Complainant's trademark save the letter "a" is replaced by an "e". The minor alteration does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8. For the purpose of assessing the confusing similarity under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD") ".com"; see [WIPO Overview 3.0](#), section 1.11.1.

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. While 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 often-impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has not rebutted the Complainant's showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name. Based on the record, the Respondent is not affiliated or related to the Complainant. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent's use of, or demonstrable preparations to use, the Domain Name in connection with a bona fide offering of goods or services. Rather, the Respondent's use of the Domain Name is evidence of bad faith, see below, and as such cannot confer rights or legitimate interests upon the Respondent.

In addition, the composition of the Domain Name is inherently misleading as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

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.

The Respondent most likely knew of the Complainant when the Respondent registered the Domain Name. It follows from the composition of the Domain Name, and the use of the Domain Name to set up email accounts used to target the Complainant's customers for fraudulent purpose. Such use of a domain name is per se evidence of bad faith. See [WIPO Overview 3.0](#) section 3.4.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) of the Policy. The third element of the Policy has been established.

7. Decision

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

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: August 21, 2024