

## **ADMINISTRATIVE PANEL DECISION**

Interpump Group S.P.A. v. Colussi Engineering Pty Ltd  
Case No. DAU2024-0017

### **1. The Parties**

The Complainant is Interpump Group S.P.A., Italy, represented by Spruson & Ferguson Lawyers, Australia.

The Respondent is Colussi Engineering Pty Ltd, Australia, represented by Bird & Bird LLP, Australia.

### **2. The Domain Names and Registrars**

The disputed domain names <interpump.au>, <interpump.com.au>, and <interpump.net.au> are registered with Domain Directors Pty Ltd.; and the disputed domain names <interpumpaustralasia.com.au>, <interpumpaustralasia.net.au>, <interpumpaustralasia.au>, <interpumpaustralia.com.au>, <interpumpaustralia.net.au>, <interpumpaustralia.au>, <interpumpgroup.com.au>, <interpumpgroup.net.au>, <interpumpgroup.au>, <interpump-group.com.au>, <interpump-group.net.au>, and <interpump-group.au> are registered with Melbourne IT Ltd (collectively the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 26, 2024. On June 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 1, 2024, the Registrar transmitted by email to the Center the verification responses confirming that the Respondent is listed as the registrant and providing the contact details. In response to a notification by the Center that the Complaint was administratively deficient, the Complainant filed an amended Complaint on July 3, 2024.

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

In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on July 4, 2024. In accordance with the Rules, paragraph 5(a), the due date for Response was July 24, 2024. The Response was filed with the Center on July 24, 2024.

The Center appointed Alan L. Limbury, Staniforth Ricketson, and John Swinson as the panelists in this matter on August 12, 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**

Founded in 1977 in Italy as Interpump S.r.l., the Complainant, Interpump Group S.P.A., manufactures high pressure water pumps and accessories used for various applications, including hydro cleaning, car washing, food cleaning, construction, reverse osmosis, drilling, agriculture, firefighting and misting. Its products are promoted and sold internationally under trade marks consisting of or incorporating INTERPUMP. It operates websites at “www.interpump.it” and “www.interpumpgroup.it”.

The Complainant has registered trade marks in many countries, including the following marks registered in Australia:

INTERPUMP, Reg. No. 1151071, registered from June 5, 2006 with a priority date of April 12, 2006 for goods in Class 7, including high-pressure pumps for washing apparatus and plants; high-pressure washers; high-pressure cleaning machines and parts thereof.

INTERPUMP, Reg. No. 1830673, registered from August 10, 2016 with a priority date of June 6, 2006 for goods in Classes 6 and 17.

IP INTERPUMP GROUP (figurative), Reg. No. 1836556, registered from May 31, 2016 with a priority date of May 24, 2016 for goods in Classes 6, 7, 9, 11, 12, and 17.

The Respondent, Colussi Engineering Pty Ltd, was co-founded by Mr. Enrico Colussi and Mr. Giovanni Colussi and was incorporated on May 30, 1968. From 1979 it imported pumps from the Complainant's predecessor, Interpump S.r.l. and manufactured finished products using those pumps. In about 1982, Mr. Giovanni Colussi obtained the oral consent of the founder of the Complainant, Mr. Fulvio Montipo, to register in Australia the business name “Interpump Australasia” and to use the name INTERPUMP in Australia. Since then, the Respondent became a reseller or distributor of the Complainant's goods in Australia. The Respondent registered “Interpump Australasia” as a Business Name in New South Wales, Australia, on July 28, 1983.

On March 4, 1994, the Complainant notified the Respondent of its appointment of Spitwater Pty Ltd as an authorized distributor of INTERPUMP goods in Australia from whom the Respondent would be able to secure INTERPUMP goods directly, while some orders could still be bought directly from the Complainant.

In or around 1995, Interpump Australasia expanded the range of products that were supplied under the name INTERPUMP in Australia.

On September 10, 2010, Interpump Australasia Pty. Ltd., ACN 146287916 and Nova Pumps Pty. Ltd., ACN 146287943 were incorporated in New South Wales, Australia, of which the Respondent is currently the sole shareholder. The Respondent refers to all three companies as the Colossi Group. The Respondent's letterhead displays an IP INTERPUMP logo, the email address “[...]@interpump.com.au” and the website address “www.interpump.com.au”, together with a logo, email address and website address for Nova Pumps.

By letter dated June 14, 2019 to the Respondent, the Complainant stated that the verbal consent granted many years earlier was exclusively limited to the function of supporting the Respondent in the distribution of the Complainant's pumps in the Australian market but that, without authorisation, the Respondent extended the use of the Interpump brand for many years, improperly linking it to the Respondent's products, its commercial documents, and its Interpump Australasia website. The Complainant asked the Respondent “to immediately stop the misuse of our brand and name”.

By letter dated October 18, 2019 to the Complainant, the Respondent stated that it will not use the Interpump brand to brand any other product it manufactures or sells where that product does not comprise or include an Interpump product but would not cease trading under “Interpump Australasia” in the manner in which it had traded since at least 2001.

On October 27, 2020, the Complainant sent to the Respondent a letter purporting to terminate within 12 months any consent granted to the Respondent to use the INTERPUMP trade marks and requesting that by October 27, 2021 all use of the INTERPUMP trade marks cease with respect to, among other things, the Respondent’s trading names and domain names, including the disputed domain names.

The disputed domain names were registered by the Respondent as follows:

<interpump.com.au> on October 29, 2001;

<interpump.net.au> and <interpumpgroup.net.au> on July 6, 2015;

<interpumpaustralasia.com.au>, <interpumpaustralasia.net.au>, <interpumpaustalia.com.au>, <interpumpaustalia.net.au>, <interpump-group.com.au> and <interpump-group.net.au> on July 31, 2015;

<interpumpgroup.com.au> on May 4, 2020;

<interpumpgroup.au> on May 12, 2022;

<interpumpaustalia.au>, <interpumpaustalia.au> and <interpump-group.au> on September 21, 2022;  
and

<interpump.au> on February 21, 2023.

The <interpump.com.au> domain name redirects to the “www.interpump.au” website, which is the official website of Interpump Australasia. None of the other domain names resolve to an active website.

## **5. Discussion and Findings**

The parties are in dispute as to the nature and scope of the consent given to the Respondent in or about the end of 1982; as to the validity of the purported termination of that consent; as to whether the Respondent has developed an independent reputation and goodwill in the INTERPUMP name in Australia; as to whether the Respondent’s manufacture and sale prior to and following the letter of October 27, 2021 of products incorporating components sourced from third party suppliers and its use and retention of the disputed domain names constitutes trade mark infringement, passing off, and/or misleading or deceptive conduct; and as to whether the Complainant’s claims are barred by laches, acquiescence, or delay.

Almost all of these issues need to be resolved in order to determine whether the Respondent has rights or legitimate interests in respect of any of the disputed domain names and whether any of the disputed domain names have been registered or are being used in bad faith.

Under these circumstances the Panel finds that the issues in dispute are beyond the scope of this administrative proceeding and are better suited to resolution in a court of competent jurisdiction.

## 6. Decision

For the foregoing reasons, the Complaint is denied.

*/Alan L. Limbury/*  
**Alan L. Limbury**  
Presiding Panelist

*/Staniforth Ricketson/*  
**Staniforth Ricketson**  
Panelist

*/John Swinson/*  
**John Swinson**  
Panelist  
Date: August 20, 2024