

## **ADMINISTRATIVE PANEL DECISION**

Skorpio Limited v. Jianhua Xing  
Case No. D2022-0555

### **1. The Parties**

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

The Respondent is Jianhua Xing, China.

### **2. The Domain Name and Registrar**

The disputed domain name <rickowensvente.com> is registered with Name.com, Inc. (Name.com LLC) (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 17, 2022. On February 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 18, 2022, 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 February 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 13, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 16, 2022.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on March 22, 2022. 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 the fashion designer Rick Owens, who started his career in Los Angeles in 1994 and launched worldwide distribution in 2001. The Complainant owns the following trademark registrations for RICK OWENS:

- European Union registration No. 002493294, registered on May 21, 2003;
- European Union registration No. 008209736, registered on November 2, 2009;
- United States of America registration No. 2857230, registered on June 29, 2004; and
- Chinese registration No. 6162781, registered on August 7, 2014.

The disputed domain name was registered on December 31, 2021.

The disputed domain name resolves to a website through which purportedly counterfeit products of the Complainant are being sold.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights. The addition of the word "vente", which is French for "sale" does not distinguish the disputed domain name from the Complainant's trademark. Instead, it leads to an assumption that the disputed domain name is the Complainant's website or affiliated with it.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not authorized by the Complainant to use its trademark. The trademark RICK OWENS is not descriptive in any way as it is the name of the designer Rick Owens. The Respondent does not own any registered rights in the trademark and is not commonly known by the disputed domain name.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. The Respondent knew of the Complainant's trademark as it has been registered since 2003 and enjoyed international success by the time the disputed domain name was registered. The disputed domain name resolves to a website through which counterfeit products of the Complainant are being sold.

##### B. Respondent

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

#### 6. Discussion and Findings

##### A. Identical or Confusingly Similar

The Complainant owns trademark registrations for the trademark RICK OWENS. The Panel is satisfied that the Complainant has established its ownership of the trademark RICK OWENS. The disputed domain name incorporates the Complainant's trademark RICK OWENS in its entirety. It is established by prior UDRP panels that when a domain name incorporates a complainant's registered trademark, such incorporation is sufficient to establish identity or confusing similarity for the purposes of the Policy even if other terms are added as part of the disputed domain name. *E.g., Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#) ("Oki Data").

The addition of the word "vente" does not alter the fact that the disputed domain name is confusingly similar to the Complainant's trademark. The generic Top-Level Domain ("gTLD") ".com" should generally be ignored

when assessing confusing similarity as established by prior UDRP decisions.

Consequently, the Panel finds that the disputed domain name is confusingly similar to the trademark of the Complainant and that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

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

A complainant must make at least a *prima facie* showing that a respondent does not have any rights or legitimate interests in the disputed domain name. Once such showing is made, the burden of production shifts to the respondent. In the instant case, the Complainant asserts that the Respondent is not authorized by the Complainant to use its trademark. Therefore, the Complainant has established a *prima facie* case and the burden of production shifts to the Respondent to show that it has rights or legitimate interests.

The Panel finds it necessary to assess whether there is a *bona fide* offering of goods or services as the disputed domain name resolves to a website through which products bearing the Complainant's trademark are being sold.

The Complainant contends that the disputed domain name is being used to sell purportedly counterfeit products. The Complainant has not provided any evidence that the products being offered are indeed counterfeit. The Panel cannot conclude that the products are counterfeit without there being some showing that they in fact are counterfeit. Prior UDRP panels have explained that "a complainant must allege facts sufficient to establish each of the three elements of the Policy, and must ensure that those facts are well pleaded. Conclusory allegations are unlikely to be sufficient; rather, the allegations should be specific and, if not burdensome, supported with appropriate evidence. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Chunhai Zhang*, WIPO Case No. [D2012-0136](#)." The Panel notes that a simple comparison of prices should be sufficient to assess whether the products being offered through the website at the disputed domain name are counterfeit. The Panel took as an example, ankle boots, and compared the prices. On the Complainant's website, the prices for such products are above EUR 1,000. Similar products are offered on the website to which the disputed domain name resolves for prices ranging between EUR 266 and 284. This means that the products are sold for almost quarter of the price of the products offered on the Complainant's website. Therefore, it is only reasonable to conclude that these are counterfeit products. As a result, the Panel finds that the website to which the disputed domain name resolves offers counterfeits of the Complainant's products.

Moreover, the Panel finds that the nature of the disputed domain name carries a risk of implied affiliation with the Complainant. See section 2.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Consequently, the Panel finds that the Complainant has met the requirement under the Policy of showing that the Respondent does not have any rights or legitimate interests in the disputed domain name. Accordingly, the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

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

There are many indications that the disputed domain name is registered and is being used in bad faith. The nature of the disputed domain name suggests affiliation with the Complainant as it incorporates the Complainant's trademark in full. The use of the term "vente" reinforces the impression that the website at the disputed domain name is the Complainant's website for selling its products online as the word "vente" means "sale" in French. The disputed domain name resolves to a website, which offers counterfeits of the Complainant's products. As such, the disputed domain name suggests affiliation with the Complainant in order to attract Internet users and offer counterfeit products. It has been found by prior UDRP panels that the use of a website for offering counterfeit goods is bad faith use. "The Panel accepts that the Respondent's website is in English and targets the US public with prices in dollars and that The Domain Name is used in bad faith because the website offers counterfeit goods for sale thereby competing with Complainant and disrupting Complainant's business." (See *Mattel, Inc. v. Magic 8 ball factory*, WIPO Case No. [D2013-0058](#)).

Such conduct falls squarely within the meaning of paragraph 4(b)(iv) of the Policy, and accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) 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, <rickowensvente.com>, be transferred to the Complainant.

*/Nayiri Boghossian/*

**Nayiri Boghossian**

Sole Panelist

Date: March 28, 2022