

ADMINISTRATIVE PANEL DECISION

SuperRare Labs Inc. v. Privacy Service Provided by Withheld for Privacy ehf /
Abraham Johnson
Case No. D2022-0988

1. The Parties

Complainant is SuperRare Labs Inc., United States of America (“United States”), represented by Sheppard, Mullin, Richter & Hampton, United States.

Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Abraham Johnson, Nigeria.¹

2. The Domain Name and Registrar

The disputed domain name <superrarehub.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 March 22, 2022. On March 23, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 23, 2022, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on March 25, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on March 31, 2022.

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”).

¹ It is evident from the case file that Privacy service provided by Withheld for Privacy ehf, Iceland, is a privacy protection service and that Abraham Johnson, Nigeria, is the underlying registrant of the disputed domain name. Therefore, unless otherwise indicated, the term “Respondent” is used by the Panel in the case at hand to refer to the latter underlying registrant only.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on April 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 24, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on April 26, 2022.

The Center appointed Stephanie G. Hartung as the sole panelist in this matter on May 3, 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

Complainant is a company organized under the laws of the United States that is active in the field of blockchain-based digital art spaces, providing a platform and marketplace for users to mint, collect and trade non-fungible tokens ("NFTs").

Complainant has evidenced to be the registered owner of the following trademark relating to its company name and brand "Superrare":

- Word mark SUPERRARE, United States Patent and Trademark Office (USPTO), registration number 5,724, 053; registration date: April 9, 2019, assigned to Complainant on January 28, 2022, status: active.

Moreover, Complainant has demonstrated to own the domain name <superrare.com>, which resolves to Complainant's main website at "www.superrare.com", where Complainant offers to buy and sell NFTs from artists worldwide.

Respondent, according to the disclosed Whois information for the disputed domain name, is a resident of Nigeria who registered the disputed domain name on March 2, 2022. By the time of the rendering of this decision, the disputed domain name resolves to a standardized default page ("This Account has been suspended.") Complainant, however, has evidenced that, at some point before the filing of this Complaint, the disputed domain name redirected to a website at "www.superrarehub.com", promoting Complainant's SUPERRARE trademark in its typical presentation as "SuperRare" (with a capital letter "R"), while providing a marketplace for NFTs featuring digital art, thereby collecting sensible personal and financial customer information through a digital wallet connection.

Complainant requests that the disputed domain name be transferred to Complainant.

5. Parties' Contentions

A. Complainant

Complainant contends to be one of the most popular and successful blockchain-based art and collectibles platforms.

Complainant submits that the disputed domain name is confusingly similar to Complainant's SUPERRARE trademark, as it incorporates the latter in its entirety, with the mere addition of the term "hub". Moreover, Complainant asserts that Respondent has no rights or legitimate interests in respect of the disputed domain name since (1) Respondent has not received authorization or license to use Complainant's SUPERRARE trademark or to register any domain name making use thereof, (2) Respondent is using the disputed domain name to defraud Internet users into providing funds and personal information under the mistaken belief that they are transacting on Complainant's platform, and (3) the many links on the website under the disputed domain name are non-functional and simply resolve to a homepage. Finally, Complainant argues that Respondent has registered and is using the disputed domain name in bad faith since (1) Respondent

indisputably had actual or constructive knowledge of Complainant's SUPERRARE trademark at the time it registered the disputed domain name on March 4, 2022, and (2) Consumers seeking to purchase NFTs minted on Complainant's platform and/or from Complainant's marketplace will be deceived into entering into a transaction believing the website under the disputed domain name is associated with Complainant which it is not, and (3) Respondent's fraudulent website under the disputed domain name solicits money and personal information from consumers through a digital wallet connection.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, Complainant carries the burden of proving:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) that Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

Respondent's default in the case at hand does not automatically result in a decision in favor of Complainant, however, paragraph 5(f) of the Rules provides that if Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint. Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from Respondent's failure to submit a Response as it considers appropriate.

A. Identical or Confusingly Similar

The Panel concludes that the disputed domain name is confusingly similar to the SUPERRARE trademark in which Complainant has rights.

The disputed domain name incorporates the SUPERRARE trademark in its entirety. Numerous UDRP panels have recognized that where a domain name incorporates a trademark in its entirety, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that trademark (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7). Moreover, it has been held in many UDRP decisions and has become a consensus view among panelists (see [WIPO Overview 3.0](#), section 1.8), that the addition of other terms (whether, e.g., descriptive or otherwise) would not prevent the finding of confusing similarity under the first element of the UDRP. Accordingly, the addition of the term "hub" does not dispel the confusing similarity arising from the incorporation of Complainant's SUPERRARE trademark in the disputed domain name.

Therefore, Complainant has established the first element under the Policy as set forth by paragraph 4(a)(i).

B. Rights or Legitimate Interests

The Panel is further convinced on the basis of Complainant's undisputed contentions that Respondent has not made use of the disputed domain name in connection with a *bona fide* offering of goods or services, nor has Respondent been commonly known by the disputed domain name, nor can it be found that Respondent has made a legitimate noncommercial or fair use thereof without intent for commercial gain.

Respondent has not been authorized to use Complainant's SUPERRARE trademark, either as a domain name or in any other way. Also, there is no reason to believe that Respondent's name somehow corresponds with the disputed domain name and Respondent does not appear to have any trademark rights

associated with the term “Superrare” on its own. To the contrary, Respondent obviously runs a website under the disputed domain name which not only promotes Complainant’s SUPERRARE trademark in its typical presentation as “SuperRare”, thereby deceiving Complainant’s customers, but also purports to provide a marketplace for NFTs featuring digital art, which is Complainant’s core business, thereby collecting sensible personal and financial customer information, presumably for some financial gain. Such making use of the disputed domain name obviously can neither be considered *bona fide* nor legitimate noncommercial or fair within the meaning of the Policy.

Accordingly, Complainant has established a *prima facie* case that Respondent has no rights or legitimate interests in respect of the disputed domain name. Now, the burden of production shifts to Respondent to come forward with appropriate allegations or evidence demonstrating to the contrary (see [WIPO Overview 3.0](#), section 2.1). Given that Respondent has defaulted, it has not met that burden.

Therefore, the Panel finds that Complainant has also satisfied paragraph 4(a)(ii) and, thus, the second element of the Policy.

C. Registered and Used in Bad Faith

The Panel finally holds that the disputed domain name was registered and is being used by Respondent in bad faith.

The circumstances to this case leave no doubt that Respondent was fully aware of Complainant’s rights in the SUPERRARE trademark (notwithstanding its claimed reputation) when registering the disputed domain name and that the latter is clearly directed thereto. Moreover, using the disputed domain name, which is confusingly similar to Complainant’s SUPERRARE trademark, to run a website which (1) promotes Complainant’s SUPERRARE trademark in its typical presentation as “SuperRare” and (2) purports to provide a marketplace for NFTs featuring digital art, thereby collecting sensible personal and financial customer information, is a clear indication that Respondent intentionally attempted to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with Complainant’s SUPERRARE trademark as to the source, sponsorship, affiliation or endorsement of Respondent’s website. Such circumstances are evidence of registration and use of the disputed domain name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

Therefore, the Panel concludes that Complainant has also satisfied the third element under the Policy set forth by paragraph 4(a)(iii).

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 <superrarehub.com> be transferred to Complainant.

/Stephanie G. Hartung/

Stephanie G. Hartung

Sole Panelist

Date: May 13, 2022