

ADMINISTRATIVE PANEL DECISION

Puma SE v. Bachmeier CHRISTIN

Case No. D2022-1058

1. The Parties

The Complainant is Puma SE, Germany, represented by Göhmann Rechtsanwälte, Germany.

The Respondent is Bachmeier CHRISTIN, Germany.

2. The Domain Name and Registrar

The disputed domain name <puma-hrvatska.com> is registered with NETIM SARL (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 28, 2022. On March 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 30, 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 the Complainant on April 1, 2022, 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 amendment to the Complaint on April 1, 2022. A second amendment to the Complaint was submitted by the Complainant on April 5, 2022.

The Center verified that the Complaint together with the amendments 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”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on April 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 27, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 28, 2022.

The Center appointed Theda König Horowicz as the sole panelist in this matter on May 9, 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 company organized and existing under the laws of Germany. The Complainant is engaged in the business of manufacturing and marketing a wide range of products, *inter alia* sports shoes, apparel, and accessories.

The Puma Group owns a wide range of brands including the word mark PUMA and PUMA with logo. The trademark PUMA was created in 1948 by Rudolf Dassler and was officially filed on October 1, 1948 (see German trademark registration no. 608870 for PUMA, registered on July 9, 1951). The Complainant's marks are registered in several countries, in particular for goods in international classes 18, 25 and 28.

The disputed domain name was registered on July 21, 2021. The disputed domain name was linked to a website reproducing the Complainant's PUMA trademark and logo and selling goods, more specifically sports shoes, bearing the Complainant's trademark and logo.

5. Parties' Contentions

A. Complainant

The Complainant states to have trademark rights in PUMA. The first part of the disputed domain name is identical to Complainant's trademark while the second part of the disputed domain name, namely "hrvatska" is the Croatian word for Croatia (the country). This second part of the disputed domain name is descriptive.

The Complainant alleges that the respondent is not using the disputed domain name in relation with a *bona fide* offering of goods as it would sell fake goods. The Respondent has not been commonly known by the disputed domain name and the impression is given that genuine goods are actually offered for sale directly from the Complainant. The disputed domain name infringes the Complainant's trademarks, notably as fake goods are sold on the website linked to it, which means that the Respondent is not making a legitimate non commercial or fair use of the disputed domain name.

The Complainant also alleges that the Respondent has registered and is using the disputed domain name in bad faith. In particular, the Respondent intentionally attempts to attract for commercial gain Internet users to the Respondents website, by creating a likelihood of confusion with Complainant's mark.

B. Respondent

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

6. Discussion and Findings

Under the Policy, in order to prevail, a complainant must prove the following three elements for obtaining the transfer of a domain name:

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

A. Identical or Confusingly Similar

The Complainant showed to have trademark rights in PUMA through several registrations worldwide, including in Germany, the location of both the Complainant and the Respondent.

According to section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. In cases where a domain name incorporates the entirety of a trademark, 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 mark for purposes of UDRP standing.

Furthermore, according to section 1.8 of the WIPO Overview 3.0, where the relevant trademark is recognizable within the disputed domain name, the addition of other terms, including geographical terms, does not prevent a finding of confusing similarity.

The disputed domain name contains the PUMA trademark in its entirety. The addition in the disputed domain name of the name of the country "hravtska" that is Croatia, does not prevent confusing similarity, as the PUMA trademark remains clearly recognizable in the disputed domain name.

Under these circumstances, the Panel concludes that the disputed domain name is confusingly similar to the Complainant's mark.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances that may demonstrate when a respondent has rights or legitimate interests in the use of a domain name. The list includes:

- (i) the use of the domain name in connection with a *bona fide* offering of goods or services;
- (ii) being commonly known by the domain name; or
- (iii) the making of a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers.

Once the Complainant establishes a *prima facie* case against the Respondent under this ground, the burden of production shifts to the Respondent to rebut it. See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant has made some submissions in order to demonstrate that the Respondent would have no rights or legitimate interests in the disputed domain name. More specifically, the Complainant has shown that the disputed domain name was used in relation to a website using without authorization the famous PUMA Trademark and logo, thus wrongly giving the impression to be associated or affiliated with the Complainant.

Based on the above, the Panel considers that the Complainant has made a *prima facie* case and the burden of production shifts to the Respondent who has chosen not to reply.

The Complainant alleges that fake PUMA goods are sold on the website linked to the disputed domain name. Nothing in the case file however evidences this allegation.

This notwithstanding, the Panel notes that the case file does not show that the Respondent would be known as "puma", that he would be genuinely active in the selling of PUMA goods or that he would not try to misleadingly divert consumers for commercial gain.

Given the nature of the disputed domain name which fully incorporates the Complainant's PUMA trademark along with the geographical term "hrvatska" the Croatian word for the country Croatia, the false impression was given that the Respondent would be operating a legitimate business of PUMA goods in this country. Such composition cannot constitute fair use as it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. See section 2.5.1 of the [WIPO Overview 3.0](#).

Furthermore, it could not have been clear to Internet users visiting the Respondent's website that it was not operated by the Complainant considering the use on the website of the PUMA logo, the descriptions of the goods sold on the website which are all referring to the Complainant's PUMA brand, and the fact that there is no disclaimer as to the lack of relation to the Complainant. See sections 2.5.2 and 2.8 of the [WIPO Overview 3.0](#).

In addition, the website was obviously of commercial nature since all goods bore a description each time containing a reference to the PUMA brand. See section 2.5.3 of the [WIPO Overview 3.0](#).

Consequently, the Panels finds that the Complainant has established its case under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel agrees that the Complainant's trademark PUMA has been widely used by the Complainant in many countries for several decades in relation notably to sport apparel and sport accessories. The trademark PUMA has a strong reputation in Complainant's home country Germany where the Respondent is also based.

There can be no doubt that the Respondent knew about the PUMA trademark when registering the disputed domain name. See section 3.2.2 of the [WIPO Overview 3.0](#).

Furthermore, the Complainant has established that the Respondent's intent in registering the disputed domain name was in fact to profit from or otherwise exploit the Complainant's trademark because the website which was used in relation to the disputed domain name was set up in a way to create a likelihood of confusion with the Complainant, notably by using the PUMA logo on the said site which falsely insinuates a connection with the Complainant's business and brand. See section 3.1.4 of the [WIPO Overview 3.0](#).

All these circumstances indicate that the Respondent's intent in registering and using the disputed domain name was in fact to profit in some fashion from or otherwise exploit the Complainant's PUMA trademark and logo. See section 3.1.1 of the [WIPO Overview 3.0](#).

In light of the above, the Panel finds that the Respondent has registered and used is using the disputed domain name in bad faith and that the Complainant has established its case under 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 <puma-hrvatska.com> be transferred to the Complainant.

/Theda König Horowicz/

Theda König Horowicz

Sole Panelist

Date: May 30, 2022