

ADMINISTRATIVE PANEL DECISION

Dr. Ing. h.c. F. Porsche AG v. Registration Private, Domains By Proxy, LLC /
“[Details Not Provided by Registrant]”
Case No. D2022-1177

1. The Parties

The Complainant is Dr. Ing. h.c. F. Porsche AG, Germany, represented by UNIT4 IP Rechtsanwälte, Stolz Stelzenmüller Weiser Grohmann Partnerschaft mbB Rechtsanwälte, Germany.

The Respondent is Registration Private, Domains By Proxy, LLC, United States of America (“US”) / “[Details Not Provided by Registrant]”, US.

2. The Domain Name and Registrar

The disputed domain name <porscheanaheim.com> (the “Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 5, 2022. On April 5, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On April 5, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name, which differed from the named Respondent and contact information in the Complaint (albeit providing no registrant or organization name in the registration of the dispute domain name). The Center sent an email communication to the Complainant on April 13, 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 14, 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”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on April 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 9, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 12, 2022.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on May 16, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a manufacturer of sports cars for more than 70 years, using “Porsche” as the prominent and distinctive part in its company name/trade name.

The Complainant owns PORSCHE trademark registrations worldwide, e.g. European Union Trade Mark No. 000073098, registered on December 12, 2000, and US Reg. No. 2200107, registered on October 27, 1998.

The Complainant also owns many domain names, such as <porsche.com> registered in 1996, which resolves to the official website “www.porsche.com”. Porsche cars are distributed through a network of Porsche dealerships, covering *inter alia* the area of Anaheim/Los Angeles.

The Domain Name was registered on May 11, 2015. At the time of the Complaint and the time of drafting the Decision, the Domain Name resolved to an inactive error page.

5. Parties’ Contentions

A. Complainant

The Complainant provides evidence of trademark registrations. The Complainant argues that the Domain Name is confusingly similar to the Complainant’s trademark. The Domain Name contains the Complainant’s trademark combined with “anaheim”; a well-known city in the US and the location of an authorized PORSCHE dealer. The addition does not lessen the confusing similarity between the Domain Name and the Complainant’s trademark.

The Complainant asserts that the Respondent is not authorized to use the Complainant’s trademark. The Respondent is not commonly known by the Domain Name. The Respondent cannot establish rights in the Domain Name, as it has not made any use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering of goods or services. The Domain Name has never resolved to an active website. The non-use of the Domain Name does not constitute a legitimate interest in the Domain Name.

The Complainant believes the Respondent must have known of the Complainant’s well-known trademark when the Respondent registered the Domain Name. The Domain Name is intentionally misleading the public, as it is exclusively associated with the Complainant. The public expects an official domain/website of the Complainant under the Domain Name, which is not the case. In addition, the registration of the Domain Name prevents the Complainant from using the Domain Name for its local dealerships in the area of Anaheim. Moreover, the Respondent conceals its true identity in order to frustrate the enforcement of the Complainant’s rights, which further underlines its bad faith. As the Domain Name has never resolved to an active website, the Respondent is engaged in bad faith passive holding of the Domain Name.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has established that it has rights in the trademark PORSCHE. The test for confusing similarity involves the comparison between the trademark and the Domain Name. In this case, the Domain Name incorporates the Complainant's trademark with the addition "anaheim". This addition does not prevent a finding of confusing similarity; see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8. For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD"); see [WIPO Overview 3.0](#), section 1.11.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant has made unrebutted assertions that it has not granted any authorization to the Respondent to register the Domain Name containing the Complainant's trademark or otherwise make use of its mark. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired unregistered trademark rights. The Respondent cannot establish rights in the Domain Name, as it has not made use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering of goods or services. The non-use of the Domain Name does not constitute a legitimate noncommercial or fair use of the Domain Name.

The Panel finds that the Complainant has made out an unrebutted *prima facie* case. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Domain Name is confusingly similar to the Complainant's well-known trademark. The Respondent must have been aware of the Complainant when the Respondent registered the Domain Name. The Domain Name is intentionally misleading Internet users. The registration of the Domain Name also prevents the Complainant from using the Domain Name for its local dealership in Anaheim. The Domain Name appears not to have resolved to an active website. The lack of active use of the Domain Name does not prevent a finding of bad faith; see [WIPO Overview 3.0](#), section 3.3. The Respondent has not provided any evidence of actual or contemplated good faith use. The Complainant's trademark is well-known. Finally, the Respondent conceals his identity/has used false contact details.

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.

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 Domain Name <porscheanaheim.com> be transferred to the Complainant.¹

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: May 30, 2022

¹ In this regard, the Panel notes the Respondent did not provide a registrant or organization name when registering the disputed domain name, nevertheless the concerned Registrar is directed to transfer the disputed domain name to the Complainant irrespective of the named Respondent in this proceeding.