

ADMINISTRATIVE PANEL DECISION

Société Française d'Assainissement v. Domain Admin, Privacy Protect, LLC
(PrivacyProtect.org) / Marley Lewis, Jpumps
Case No. D2022-1705

1. The Parties

The Complainant is Société Française d'Assainissement, France, represented by Osborne Clarke, United Kingdom (the "UK").

The Respondent is Domain Admin, Privacy Protect, LLC (PrivacyProtect.org), United States of America / Marley Lewis, Jpumps, UK.

2. The Domain Name and Registrar

The disputed domain name <shop-saniflo.com> (the "Disputed Domain Name") is registered with Launchpad.com Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 10, 2022. On May 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On May 11, 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 May 18, 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 amended Complaint on May 23, 2022.

The Center verified that the Complaint together with the amended 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 May 30, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 19, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 30, 2022.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on July 4, 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 was founded in 1958 and is an international company which sells a wide range of macerators, pumps, and lifting stations under and by reference to the SANIFLO brand through its group companies, distributors and retailers worldwide. The turnover of the Complainant's sale of SANIFLO products in the UK from 2017 to 2022 was GBP 95 million. Currently, SANIFLO products are sold in multiple jurisdictions, including: UK, Ireland, France, Belgium, the Netherlands, Germany, Austria, Switzerland, Italy, Spain, Portugal, Sweden, Poland, the Russian Federation, the Czech Republic, Romania, Turkey, the United States of America, Canada, Australia, New Zealand, South Africa, Brazil, China, Japan and Viet Nam.

The Complainant is the owner of several trademark registrations for the SANIFLO mark including, *inter alia*, UK Trademark Registration Numbers UK00001114861, UK00002026234 and UK00002595850 for SANIFLO in different classes registered on May 24, 1979, August 2, 1996 and December 30, 2011, respectively (the "Complainant's Trademark"). The Complainant has thus obtained an exclusive right to the Complainant's Trademark through extensive use.

The Disputed Domain Name was registered on August 23, 2021. The Disputed Domain Name was used in association with identical or highly similar goods and services for which the Complainant's Trademark is registered, and currently resolves to a webpage displaying click-through advertising websites comprised of parked pages with pay-per click links for plumbing.

5. Parties' Contentions

A. Complainant

The Complainant's primary contentions can be summarized as follows:

(a) The Disputed Domain Name is identical or confusingly similar to the Complainant's Trademark. The Complainant's Trademark is reproduced in its entirety in the Disputed Domain Name. The only elements which differentiate the Disputed Domain Name from the Complainant's Trademark are the additions of the word "shop-" and the generic Top-Level Domain ".com".

(b) The Respondent does not have any rights or legitimate interests in the Disputed Domain Name. The Complainant has never licensed, authorized or given permission to the Respondent, who is not associated with the Complainant in any way, to use the Complainant's Trademark or to register the Disputed Domain Name. There is also no evidence of the Respondent's use of, or demonstrable preparations to use, the Disputed Domain Name or a name corresponding to the Disputed Domain Name in connection with a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use of the Complainant's Trademark.

(c) Both the Respondent's registration and use of the Disputed Domain Name establish the Respondent's bad faith. The Respondent's registration of the Disputed Domain Name, which completely incorporates the Complainant's Trademark, is in itself an act of bad faith by someone with no legal connection to the Complainant's business.

The Disputed Domain Name previously redirected to "macerator-pumps.com" (the "Website"), which advertised and sold a range of macerator pumps, sewage pumps and other sanitary-related products. A number of macerator pumps advertised on the Website were falsely implied to be genuine SANIFLO products (the "Infringing Activities").

Prior to the Respondent's registration of the Disputed Domain Name, the Complainant sent a cease and desist letter to the director of the company behind the Website through the email address provided on the Website on April 8, 2021, in which it informed about the Complainant's Trademark, and requested the cease of the Infringing Activities. In the email correspondence between them from April to May 2021, the director of the company agreed to cease the Infringing Activities. Although the relationship between the director and the Respondent is unclear, given that the Disputed Domain Name resolved to the Website on which the director operated his business, it is highly likely that he and the Respondent are connected.

Despite being aware of the Complainant's Trademark and having agreed to cease the Infringing Activities, the Respondent proceeded to register the Disputed Domain Name, demonstrating the Respondent's intention to create a false impression that the Disputed Domain Name is associated with the Complainant and to confuse and/or divert customers who are looking for genuine SANIFLO products to the Website. In so doing, the Respondent's actions amounted to bad faith.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

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

A. Identical or Confusingly Similar

The Panel accepts that the Complainant has rights in the Complainant's Trademark, based on its various trademark registrations listed above in Section 4.

It is well established that in making an enquiry as to whether a trademark is identical or confusingly similar to a domain name, the generic Top-Level Domain ("gTLD") extension, ".com" in this case, may be disregarded. See Section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

The Disputed Domain Name incorporates the Complainant's Trademark in its entirety with the addition of the term "shop". UDRP panels have consistently found that the addition of other terms to a mark (whether descriptive, geographical, pejorative, meaningless, or otherwise) will not alter the fact that the domain name at issue is confusingly similar to the mark in question. See Section 1.8 of the [WIPO Overview 3.0](#).

The Panel therefore finds that the mere addition of the prefix "shop" does not prevent a finding of confusing similarity between the Disputed Domain Name and the Complainant's Trademark.

As such, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's Trademark, and accordingly, paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Once a complainant establishes a *prima facie* case in respect of the lack of rights or legitimate interests of a respondent in a disputed domain name, the respondent then carries the burden of demonstrating that it has rights or legitimate interests in the domain name. Where the respondent fails to do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. See Section 2.1 of the [WIPO Overview 3.0](#).

The Panel accepts that the Complainant has not authorized the Respondent to use the Complainant's Trademark, and there is no relationship between the Complainant and the Respondent which would otherwise entitle the Respondent to use the Complainant's Trademark. Accordingly, the Panel is of the view that a *prima facie* case has been established by the Complainant and it is for the Respondent to show rights or legitimate interests in the Disputed Domain Name.

The Respondent did not submit a Response. The fact that the Respondent did not submit a formal Response does not automatically result in a decision in favor of the Complainant. However, the Respondent's failure to file a Response may result in the Panel drawing appropriate inferences from such default. The Panel may also accept all reasonable and supported allegations and inferences flowing from the Complainant as true (see *Entertainment Shopping AG v. Nischal Soni, Sonik Technologies*, WIPO Case No. [D2009-1437](#); and *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#)).

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish rights or legitimate interests in the Disputed Domain Name by demonstrating any of the following:

- (i) before any notice to him of the dispute, the Respondent's use of, or demonstrable preparations to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name was in connection with a *bona fide* offering of goods or services;
- (ii) the Respondent has been commonly known by the Disputed Domain Name, even if he has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate non-commercial or fair use of the Disputed Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

There is no evidence to suggest that the Respondent's use of, or demonstrable preparations to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name was in connection with a *bona fide* offering of goods or services. The Panel agrees with the Complainant that the Respondent's use of the Disputed Domain Name cannot be regarded as legitimate non-commercial or fair use, noting in particular that the Complainant's Trademark would not likely be adopted by the Respondent other than for the purpose of creating an impression that the Disputed Domain Name is associated with the Complainant or otherwise taking advantage of the goodwill of the Complainant's Trademark. In this regard, the Panel also notes the nature of the Disputed Domain Name, being confusingly similar to the Complainant's Trademark, carries a risk of implied affiliation. See Section 2.5.1 of the [WIPO Overview 3.0](#).

In addition, no evidence has been provided to prove that the Respondent has trademark rights corresponding to the Disputed Domain Name, or that the Respondent has become known by the Disputed Domain Name.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name and the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar to a widely-known trademark by an unaffiliated entity (particularly domain names which incorporate a mark

plus a descriptive term) can already by itself create a presumption of bad faith. See Section 3.1.4 of the [WIPO Overview 3.0](#).

After reviewing the supporting evidence submitted by the Complainant, the Panel agrees with the Complainant that the Complainant's Trademark appears to be fairly well-known. A quick Internet search conducted by the Panel shows that the top search results returned for the keyword "SANIFLO" are the Complainant's websites and third party websites providing information relating to the Complainant's plumbing and maceration business. Therefore, taking this into consideration together with the fact that the Disputed Domain Name incorporates the Complainant's Trademark in its entirety with the addition of the term "shop", the Respondent must have been aware of the Complainant and the rights in the Complainant's Trademark when registering the Disputed Domain Name.

The Panel also agrees with the Complainant that, given the nature of the Complainant's business and the fact that the Respondent used the Disputed Domain Name to offer online sales of plumbing equipment, the addition of the term "shop" may increase the possibility of Internet users being led to believe that the Disputed Domain Name is owned by or associated with the Complainant.

In addition, the Panel finds that the following factors further support a finding that the Disputed Domain Name was registered and is being used by the Respondent in bad faith:

(i) The Respondent failed to respond to the Complainant's contentions and has provided no evidence of any actual or contemplated good faith use by it of the Disputed Domain Name.

(ii) It is difficult to conceive of any plausible use of the Disputed Domain Name that would amount to good faith use, given that the Disputed Domain Name contains the Complainant's Trademark in its entirety (with the addition of a descriptive term "shop"). The Respondent used the Disputed Domain Name to engage in the Infringing Activities. The Respondent has not demonstrated any attempt to make legitimate use of the Disputed Domain Name and the website to which it resolves, which evidences a lack of rights or legitimate interests in the Disputed Domain Name, as confirmed by past Panels (see *Washington Mutual, Inc., v. Ashley Khong*, WIPO Case No. [D2005-0740](#)).

In the circumstances, the Panel finds that the Respondent registered and has been using the Disputed Domain Name in bad faith, and paragraph 4(a)(iii) of the Policy has been satisfied.

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, <shop-saniflo.com>, be transferred to the Complainant.

/Gabriela Kennedy/

Gabriela Kennedy

Sole Panelist

Date: July 18, 2022