

ADMINISTRATIVE PANEL DECISION

SRAM, LLC v. Whois Agent, Domain Protection Services, Inc. / Jgdg Ybdeg
Case No. D2022-2531

1. The Parties

The Complainant is SRAM, LLC, United States of America (“United States” or “U.S.”), represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States.

The Respondent is Whois Agent, Domain Protection Services, Inc., United States / Jgdg Ybdeg, China.

2. The Domain Name and Registrar

The disputed domain name <rockshox.store> (the “Disputed Domain Name”) is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 12, 2022. On July 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 14, 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 July 14, 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 July 16, 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 July 18, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 7, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 8, 2022.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on August 15, 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 1987 and is manufacturer of bicycle parts including gear shifters, drivetrains, suspension and brake components and high-end wheelsets. The Complainant is based in Chicago, United States of America, and has offices in four other U.S. states and eleven cities in nine other countries.

The Complainant is the owner of numerous trademark registrations for the ROCK SHOX mark in different countries and classes including, *inter alia*, United States Trademark Registration Number 1654275 registered on August 20, 1991, (the "Complainant's Trademark"). The Complainant also owns the domain name <rockshox.com>. The Complainant has thus obtained an exclusive right to the Complainant's Trademark through extensive use.

The Disputed Domain Name was registered on June 7, 2022, more than 31 years after the Complainant's Trademark was first registered. The Disputed Domain Name currently resolves to a website featuring the Complainant's Trademark and offering for sale bicycle components under the Complainant's Trademark (the "Infringing Website").

5. Parties' Contentions

A. Complainant

(a) The Disputed Domain Name is 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 Top-Level Domain ".store".

(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 non-commercial 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 resolves to the Infringing Website, 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 potential customers of the Complainant to the Infringing 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; and
- (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 trademark registration mentioned 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, ".store" 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. UDRP panels have consistently found that a domain name that wholly and only incorporates a complainant's trademark is identical or confusingly similar to the complainant's trademark (see *Societe Air France v Indra Armansyah*, WIPO Case No. [D2016-2027](#); and *Icebug AB v. Domain Administrator*, WIPO Case No. [D2013-1823](#)).

As such, the Panel finds that the Disputed Domain Name is identical 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. AAJM*, 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. Furthermore, the goods offered for sale on the Infringing Website, while clearly unauthorized by the Complainant, seek to take unfair advantage of the Complainant's Trademark and reputation. Accordingly, the Panel agrees with the Complainant that the Respondent's use of the Disputed Domain Name cannot be regarded as legitimate noncommercial 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 and the products offered on the Infringing Website are associated with the Complainant or otherwise to take advantage of the goodwill of the Complainant's Trademark. In this regard, the Panel also notes the nature of the Disputed Domain Name, being identical to the Complainant's Trademark, carries a high 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 well-known. A quick Internet search conducted by the Panel shows that the top search results returned for the keywords "ROCKSHOX" and "ROCK SHOX" are the Complainant's websites and third party websites providing information relating to the Complainant's products. Therefore, taking this into consideration together with the fact that the Disputed Domain Name incorporates the Complainant's Trademark in its entirety, the Website displays the Complainant's Trademark, and the Infringing Website purports to sell goods that bear the Complainant's Trademark, the Respondent must have been aware of the Complainant and the rights in the Complainant's Trademark when registering the Disputed Domain Name.

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 is identical to the Complainant's Trademark in its entirety. The Respondent uses the Disputed Domain Name to operate the Infringing Website and purportedly offer products bearing the Complainant's Trademark for sale. 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 UDRP 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 <rockshox.store> be transferred to the Complainant.

/Gabriela Kennedy/

Gabriela Kennedy

Sole Panelist

Date: August 26, 2022