

## **ADMINISTRATIVE PANEL DECISION**

### **Sorel Corporation v. Client Care, Web Commerce Communications Limited Case No. D2022-2533**

#### **1. The Parties**

The Complainant is Sorel Corporation, the United States of America, represented by Strategic IP Information Pte Ltd., Singapore.

The Respondent is Client Care, Web Commerce Communications Limited, Malaysia.

#### **2. The Domain Name and Registrar**

The disputed domain name <sorelturkiye.com> is registered with Alibaba.com Singapore E-Commerce Private Limited (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 amended Complaint on July 19, 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 July 20, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 9, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 10, 2022.



The Center appointed Gökhan Gökçe 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 is a designer, manufacturer, and distributor of footwear products throughout the world. The Complainant distributes its products in many countries in the world through e-commerce, retail stores, department stores, fashion boutiques, and more, all under the trademarks SOREL and  variations thereof since 1962.

The Complainant owns numerous trademark registrations for SOREL and  in jurisdictions throughout the world, including in Türkiye. Such trademark registrations include but are not limited to the following:

- Turkish Trademark No. 2009 18835, SOREL, registered on December 23, 2010;
- Turkish Trademark No. 2009 18847,  , registered on December 29, 2010;
- United States of America Trademark No. 3001928, SOREL, registered on September 27, 2005;
- European Union Trademark No. 000829515, SOREL, registered on October 29, 1999; and
- European Union Trademark No. 008186553,  , registered on January 12, 2010.

The Complainant also owns and operates its website at “www.sorel.com” since 1997 (Annexes 7 and 8 to the Complaint).

The disputed domain name was registered on October 12, 2021. The disputed domain name resolves to an active website in Turkish offering the Complainant’s products for sale.

#### 5. Parties’ Contentions

##### A. Complainant

The Complainant requests the transfer of the disputed domain name.

The Complainant believes the disputed domain name is confusingly similar to the Complainant’s SOREL trademark. The Complainant asserts that the disputed domain name is confusingly similar to its well-known trademark SOREL as they incorporate the whole of Complainant’s SOREL trademark. The Complainant states that the addition of “turkiye” does not have an impact on the overall impression of the dominant part of the disputed domain name and does not avoid the finding of confusing similarity. The Complainant states that the complete incorporation of a Complainant’s trademark creates sufficient similarity between the mark and the disputed domain name.

The Complainant argues that the Respondent is in no way authorized to use the Complainant’s SOREL trademark in the disputed domain name and is not using the disputed domain name in connection with a *bona fide* offering of goods or services. It is rather argued that the disputed domain name falsely suggests that there is some official or authorized links between the Complainant and the Respondent.

The Complainant indicates that the disputed domain name has been registered in bad faith. The Complainant argues that the Respondent has, by using the disputed domain name, intentionally attempted to redirect Internet users seeking information on the Complainant’s products to website which contains the Complainant’s registered trademark and logo.

## B. Respondent

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

## 6. Discussion and Findings

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark 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 in bad faith.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See, section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the [WIPO Overview 3.0](#).

### A. Identical or Confusingly Similar

The Panel finds that the disputed domain name is confusingly similar to the registered SOREL trademarks owned by the Complainant. The disputed domain name incorporates the trademark of Complainant in its entirety. This is sufficient to establish confusing similarity (*Magnum Piering, Inc. v. The Mudjackers and Garwood S. Wilson, Sr.*, WIPO Case No. [D2000-1525](#)).

The geographic term "turkiye" which is added in the disputed domain name does not prevent a finding of confusing similarity under the first element. (*BHP Billiton Innovation Pty Ltd v. Oloyi*, WIPO Case No. [D2017-0284](#); *Accenture Global Services Limited v. Jean Jacques / Luck Loic*, WIPO Case No. [D2016-1315](#); and [WIPO Overview 3.0](#), section 1.8).

The generic top level domain ("gTLD") ".com" is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons only (*Rexel Developments SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#)).

Accordingly, the Panel finds that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

### B. Rights or Legitimate Interests

The Panel further finds that the Respondent has failed to demonstrate any rights or legitimate interests in the disputed domain name.

While the burden of proof on this element remains with the Complainant, previous UDRP panels have recognized that this would result in the often impossible task of proving a negative, in particular as the evidence in this regard is often primarily within the knowledge of the Respondent. Therefore, the Panel agrees with prior UDRP panels that the Complainant is required to make out a *prima facie* case before the burden of production shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain name in order to meet the requirements of paragraph 4(a)(ii) of the Policy. See, *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

The Panel finds that the Complainant has satisfied this requirement, while the Respondent has failed to file any evidence or make any convincing argument to demonstrate rights or legitimate interests in the disputed domain name according to the Policy, paragraphs 4(a)(ii) and 4(c).

In its Complaint, the Complainant has provided uncontested *prima facie* evidence that the Respondent has no rights or legitimate interests to use the Complainant's trademark in a confusingly similar way within the disputed domain name.

There is also no indication in the current record that the Respondent is commonly known by the disputed domain name. In the absence of a Response, the Respondent has particularly failed to demonstrate any of the other non-exclusive circumstances evidencing rights or legitimate interests under the Policy, paragraph 4(c) or other evidence of rights or legitimate interests in the disputed domain name.

Quite the contrary, the Panel notes that the nature of the disputed domain name carries a significant risk of implied affiliation or association, as stated in section 2.5.1 of the [WIPO Overview 3.0](#).

Bearing all this in mind, the Panel does not see any basis for assessing a *bona fide* offering of goods or services by the Respondent.

As a conclusion, the Panel finds that the Complainant has also satisfied the requirements of paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

The Panel finds that the Respondent was aware of the Complainant and its reputation in the SOREL trademarks at the time the disputed domain name was registered. The Respondent's website contains numerous references to the Complainant, including reproducing the device mark and copying the Complainant's copyrighted photos of its products. The registration of the disputed domain name in awareness of the SOREL trademark and in the absence of rights or legitimate interests amounts under these circumstances to registration in bad faith.

The Respondent registered the disputed domain name for the purposes of operating a website specifically to sell the Complainant's products. The Respondent is using the disputed domain name that is confusingly similar to the SOREL trademark to sell products, be they genuine or otherwise, without the Complainant's approval and without meeting the Oki Data test (see *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#)). Consequently, the Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its websites by creating a likelihood of confusion with the Complainant and the Complainant's SOREL trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

Lastly, there is no disclaimer on the website connected to the disputed domain name regarding the relationship between the Complainant and the Respondent, or the lack thereof.

The Panel therefore concludes that the disputed domain name was registered and is being used in bad faith and that the Complainant has also satisfied the third element of the Policy, namely, 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, <sorelturkiye.com>, be transferred to the Complainant.

*/Gökhan Gökçe/*

**Gökhan Gökçe**

Sole Panelist

Date: August 24, 2022