

## **ADMINISTRATIVE PANEL DECISION**

SRAM, LLC v. Bvdg Gvdw  
Case No. D2022-3628

### **1. The Parties**

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

The Respondent is Bvdg Gvdw, China.

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

The disputed domain name <sramcycling.com> 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 September 30, 2022. On September 30, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 2, 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 (Whois Agent, Domain Protection Services, Inc.). The Center sent an email communication to the Complainant on October 3, 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/amended Complaint on October 5, 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 October 5, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 25, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 26, 2022.

The Center appointed Andrew Brown K.C. as the sole panelist in this matter on November 2, 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 incorporated in the US, founded in 1987 and proceeded to develop and manufacture a new and distinctive gear shifter for bicycles. The Complainant's head office is in Chicago and it has offices in four other US states and in nine other countries.

The Complainant owns some 82 registered trademarks in 16 countries for marks which consist of or contain the mark SRAM (the "SRAM Trademark"). Some of these registrations consist of or contain SRAM in a stylized form. The SRAM Trademarks include the following registrations in the US:

Mark	Reg. No.	Date of First Use in Commerce	Date of Reg.	Goods/Services (partial)
SRAM	2,056,661	January 1, 1988	April 29, 1997	Bicycle components
SRAM	6,642,190	March 28, 2002	February 15, 2022	Bicycle parts
SRAM	6,415,944	September 15, 2001	July 13, 2021	Clothing
SRAM	6,611,023	August 26, 2015	January 11, 2022	Batteries and battery chargers

The Complainant has a presence on the Internet through its domain name <sram.com> and owns a number of domain names each of which includes the SRAM Trademark.

On its 25th anniversary the Complainant published a book about its history, the development and marketing of its cycling products, and its current operations.

The disputed domain name was registered on June 27, 2022, and displays a website consisting of copied photographs from the Complainant's website and allegedly offers for sale SRAM trademarked goods without the Complainant's authorization.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant asserts its rights in the SRAM Trademark in relation to bicycle components and associated products. It notes that two previous panels have found that it has rights in the SRAM Trademark (*SRAM, LLC v Li Qing*, WIPO Case No. [D2016-1172](#), and *SRAM, LLC v Shutian Tang*, WIPO Case No. [D2022-1366](#)).

The Complainant states that the disputed domain name is confusingly similar to its SRAM Trademark because it contains the SRAM Trademark in its entirety with the addition of the descriptive word "cycling", which term is associated with the Complainant and its SRAM Trademark. The Complainant asserts that the addition of the word "cycling" increases the similarity of the disputed domain name with the SRAM Trademark because that term is descriptive of the Complainant's own goods and services.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant states that it has never licensed or authorized the Respondent to register or use its SRAM Trademark in any manner. The Complainant asserts that the Respondent has never been commonly known by the disputed domain name and it has never acquired any trademark rights in it.

The Complainant states that the Respondent is using the disputed domain name in connection with a website that falsely purports to be a website for or otherwise associated with the Complainant by using the SRAM Trademark and reproducing images from the Complainant's website without permission. The Complainant asserts that this is not a *bona fide* offering of goods and services and that these actions are not legitimate and are misleading. The Complainant contends that to the extent that the Respondent may claim or consider itself to be a reseller of the Complainant's products (which the Respondent is not authorized to do) the Respondent nonetheless lacks rights or legitimate interests with respect to the disputed domain name.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant states that its SRAM Trademark is widely known. It relies on the extent of its use of the SRAM Trademark, the spread of its trademark registrations in 16 countries and that the oldest trademark was registered more than 25 years ago. Given these circumstances, the Complainant states that it is implausible that the Respondent was not aware of the Complainant and its SRAM Trademark when it registered the disputed domain name.

The Complainant submits that because the disputed domain name is so obviously connected with it, that the Respondent's actions amount to opportunistic bad faith in violation of the Policy.

In addition, the Complainant states that by using the disputed domain name in connection with a website that falsely purports to be a website for or otherwise associated with the Complainant – by using the SRAM logo and images from the Complainant's website without permission – the Respondent is clearly creating the likelihood of confusion with the SRAM Trademark. This is claimed to be bad faith pursuant to paragraph 4(b)(iv) of the Policy. The Complainant further contends that the Respondent's use of the Complainant's SRAM logo on the website located at the disputed domain name has increased the likelihood of confusion between the Respondent's disputed domain name and website and the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

Pursuant to paragraph 4(a) of the Policy, a Complainant must prove each of the following elements with respect to the disputed domain name in order to succeed in this proceeding:

- (i) That the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights; and
- (ii) That the Respondent has no rights or legitimate interests in respect of 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 has provided evidence of its registration of its SRAM Trademark in the US in classes 12, 25, and 9 and in other countries either for the word "sram" on its own or in conjunction with other words in classes 12 and 25. It has also provided evidence of its use of the SRAM Trademark. The SRAM Trademark is an invented word which materially assists its distinctiveness.

It is the Panel's view that the Complainant has clearly and sufficiently demonstrated its rights in the SRAM Trademark and has achieved a significant level of recognition in its SRAM Trademark in respect of specialized bicycle parts. In this regard, the Panel draws support from the two earlier panel decisions in

respect of the Complainant referred to in Section 5 both of which found that the Complainant had rights in respect of the SRAM Trademark.

The Panel accepts that the disputed domain name is confusingly similar to the Complainant's SRAM Trademark.

As noted in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8, "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless or otherwise) does not prevent a finding of confusing similarity under the first element". It is the Panel's view that the addition of the term "cycling" to the SRAM Trademark in the disputed domain name does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's SRAM Trademark which is clearly recognizable in the disputed domain name.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's SRAM Trademark and finds in favor of the Complainant.

### **B. Rights or Legitimate Interests**

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish that it has rights to or legitimate interests in the disputed domain name, among other circumstances, by showing any one of the following elements:

- (i) That before notice of the dispute, the Respondent used or made 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; or
- (ii) That the Respondent has been commonly known by the disputed domain name, even if it had acquired no trademark or service mark rights; or
- (iii) That the Respondent is making a legitimate noncommercial 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.

The overall burden of proof for establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name lies with the Complainant.

There is no evidence of the existence of any rights or legitimate interests on the part of the Respondent in the SRAM Trademark pursuant to paragraph 4(c) of the Policy. The Complainant has prior longstanding rights in the SRAM Trademark for over 25 years which well precede the Respondent's registration of the disputed domain name. The Panel is satisfied that the Respondent has never authorized, licensed or consented to the use of SRAM Trademark by the Respondent.

The Panel is satisfied too that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name. The Respondent has, without authorization or license, copied and pasted photographs from the Complainant's website to the website located at the disputed domain name and has used that website at the disputed domain name to allegedly offer SRAM parts without authorization and without any statement disclaiming the website's association to the Complainant. Moreover, the Panel finds that the composition of the disputed domain name, adding the term "cycling" to Complainant's SRAM trademark, coupled with the use of the disputed domain name to resolve to a website in which Respondent tries to impersonate Complainants and supposedly sell SRAM products, affirms Respondent's intention of taking unfair advantage of the likelihood of confusion between the disputed domain name and Complainants as to the origin or affiliation of the website at the disputed domain name.

The Respondent has failed to show that it has acquired any rights in respect to the disputed domain name or that the disputed domain is used in connection with a *bona fide* offering of goods or services. The Respondent was given the opportunity to demonstrate its rights or legitimate interests, but it did not reply to the Complainant's complaint.

The Panel therefore finds that the Complainant has satisfied the burden of establishing a *prima facie* case that the Respondent has no rights to or legitimate interests in the disputed domain name and accordingly finds that paragraph 4(a)(ii) of the Policy is satisfied in favor of the Complainant.

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

The Panel is also satisfied that the disputed domain name has been registered in bad faith for the following reasons:

(i) The Panel is satisfied that the Complainant's SRAM Trademark is well known with significant recognition levels in respect of goods in classes 12, 25, and 9 as a result of the Complainant's extensive use of that mark for over 25 years. The Panel is also satisfied that the Respondent was and is aware of the Complainant and its SRAM Trademark at the time of registration. This is evidenced by the fact that the disputed domain name reproduces the SRAM Trademark in its entirety and adds to it the term "cycling". The combination is distinctive of the activities carried out by the Complainant under the SRAM Trademark over the last 25 years. The further fact that the Respondent has copied the Complainant's distinctive SRAM logo as well as images from the Complainant's website and has reproduced these on the website located at the disputed domain name also justifies this finding.

(ii) Paragraph 2 of the UDRP puts a burden on registrants where it states "by applying to register a domain name, or by asking us to maintain or renew a domain name registration, you hereby represent and bond to us that [...] to your knowledge, the registration of the domain name will not infringe upon or otherwise violate the rights of a third party [...]. It is your responsibility to determine whether your domain name infringes or violates someone else's rights." Even the most cursory trademark or other online search or any online search of existing domain names prior to the Respondent registering the disputed domain name would instantly have revealed the Complainant and its SRAM Trademark. See in this regard section 3.2.3 of the [WIPO Overview 3.0](#).

(iii) The Respondent has made no substantive submission in this proceeding or sought to answer the Complainant's allegations. The Panel is entitled to draw adverse inferences from that failure.

(iv) The Respondent has made use of a privacy service to mask its details in the publicly available Whois, which under the circumstances of this proceeding supports an inference of bad faith.

The Panel is also satisfied that the disputed domain name has been used in bad faith for the following reasons:

(i) The Complainant has provided evidence that the Respondent is using the disputed domain name and the combination of the SRAM Trademark and the word "cycling" to attract users to the website hosted there. In addition, as noted earlier, the Respondent is using the Complainant's distinctive SRAM logo as well as images from the Complainant's website. The Panel is satisfied that the Respondent's use will cause confusion or deception amongst Internet users and promote the false belief that the disputed domain name belongs to the Complainant or that the Respondent's business is economically linked to the Complainant.

(ii) Again, the Respondent had the opportunity to respond to the Complainant but has not done so. The Panel is therefore entitled to draw adverse inferences from that omission.

Accordingly, the Panel finds that paragraph 4(a)(iii) of the Policy is satisfied in favor of the Complainant.

## 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, <sramcycling.com>, be transferred to the Complainant.

*/Andrew Brown K.C./*

**Andrew Brown K.C.**

Sole Panelist

Date: November 16, 2022