

ADMINISTRATIVE PANEL DECISION

Miguel Torres S.A. v. Philip Liu
Case No. D2022-3948

1. The Parties

The Complainant is Miguel Torres S.A., Spain, represented by Curell Suñol SLP, Spain.

The Respondent is Philip Liu, Sweden.

2. The Domain Name and Registrar

The disputed domain name <torres-es.com> (the “Domain Name”) is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 21, 2022. On October 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 22, 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. The Center sent an email communication to the Complainant on October 24, 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 October 28, 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 31, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 20, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 21, 2022.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on November 23, 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 Spanish family-owned wine producer. TORRES is one of the most famous and well-recognized wine brands in the world, recognized by press and media. The Complainant's wines are today produced on three continents and sold in 150 countries.

The Complainant owns trademark registrations for TORRES, such as European Union Trade Mark registration number 001752526, registered October 1, 2001. The European Union Intellectual Property Office (EUIPO) has acknowledged that the TORRES trademark is well known. The Complainant also owns the domain name <torres.es>, which is used to host its main website.

The Domain Name was registered on August 26, 2022. At the time of drafting the Decision, the Domain Name resolved to an error page.

5. Parties' Contentions

A. Complainant

The Complainant provides evidence of trademark registrations and argues that the addition of the letters "es", which refer to Spain, does not prevent a finding of confusing similarity with the Complainant's trademark.

The Complainant asserts that the Respondent is not authorized to use the Complainant's trademark. 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. On the contrary, the Complainant documents that the Respondent has used the Domain Name to set up email accounts to send phishing emails to the Complainant's distributors related to payments of invoices.

The Complainant documents that the Respondent registered and has used the Domain Name to impersonate the Complainant's company and its employees to send phishing emails to distributors in which they claimed fraudulent payments in favor of a third party.

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 to the trademark TORRES. The test for confusing similarity involves a comparison between the trademark and the Domain Name. The Domain Name incorporates the Complainant's trademark, with the addition of "-es". This addition does not prevent a finding of confusing similarity between the Domain Name and the trademark.

For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domains ("gTLDs"), see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.11.1.

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 the Complainant's mark. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired unregistered trademark rights. The Respondent has not made use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering. The Respondent's use of the Domain Name is clearly not *bona fide*, but rather evidence of bad faith.

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 Panel finds it evident from the use of the Domain Name that the Respondent must have been aware of the Complainant and its trademarks when the Respondent registered the Domain Name. The Respondent has used the Domain Name to set up email accounts to send phishing emails to the Complainant's distributors related to payments of invoices. The Respondent's use of the Domain Name in phishing activity is clear evidence of bad faith.

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 <torres-es.com> be transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: December 12, 2022